

REFLECTIONS UPON CONTEMPORARY TURKISH DEMOCRACY:
A RAWLSIAN PERSPECTIVE

A Ph.D. Dissertation

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Ankara
December 2009

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The Institute of Economics and Social Sciences
of
Bilkent University

by

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In Partial Fulfillment of the Requirements for the Degree of
DOCTOR OF PHILOSOPHY IN POLITICAL SCIENCE AND PUBLIC
ADMINISTRATION

in

THE DEPARTMENT OF
POLITICAL SCIENCE AND PUBLIC ADMINISTRATION
BILKENT UNIVERSITY
ANKARA

December 2009

I certify that I have read this thesis and have found that it is fully adequate, in scope and in quality, as a thesis for the degree of Doctor of Philosophy in Political Science.

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ABSTRACT

REFLECTIONS UPON CONTEMPORARY TURKISH DEMOCRACY: A RAWLSIAN PERSPECTIVE

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December 2009

In this dissertation, John Rawls' 'justice as fairness' is applied to contemporary Turkey and used as a framework to reflect upon democratization process in Turkey. In order to substantiate how Rawls' political liberalism and justice as fairness are related to democratization process in general, and to Turkish democratization in particular, first, the possible relations between Rawls' conceptualization of 'constitutional consensus,' 'overlapping consensus,' and the basic concepts in the democratization literature are analyzed.

It is argued that the initial stage of 'constitutional consensus' on democratic procedures (being only a *modus vivendi*) corresponds to 'democratic transition.' On the other hand, it is argued that the finalized stage of constitutional consensus corresponds to 'minimalist' and 'negative' democratic consolidation. Finally, it is claimed that 'overlapping consensus' corresponds to 'maximalist' and 'positive' democratic consolidation.

When we apply these concepts to the Turkish case, it is seen that Turkey displays certain attitudinal and behavioral deficiencies in terms of meeting all the conditions of a 'constitutional consensus' by which democratic procedures would supposedly be secured; however, it is also argued that Turkey is moving closer to a 'constitutional consensus' as the major groups in Turkey gradually adhere to these procedures. In this regard, Turkey is depicted as a 'borderline' case in terms of meeting the conditions of a 'constitutional consensus,' which is also supported by Turkey's recent Freedom House ratings that denote a borderline situation.

With respect to the possibility of forming an 'overlapping consensus' in the longer run in Turkey, four major issues are addressed in the study: basic rights and liberties, social justice, secularism, and the Kurdish issue. Rawls' veil of ignorance and two principles of justice are applied to these four issues, and their implications are

discussed. It is argued that equality, reciprocity, and the use of public reason would be crucial in terms of forming an overlapping consensus on these issues.

Another central issue discussed in the dissertation is the issue of socio-economic modernization that is taken for granted in Rawls' writings, and Turkey's opportunities for consolidating its democracy in the coming years with reference to socio-economic modernization. Based on the empirical findings of modernization theory, it is argued that Turkey's rising income and human development levels might serve to facilitate democratic development in Turkey.

It is claimed that higher levels of socio-economic development, possibly enhanced by Turkey's EU-based reforms, might create a more conducive environment for further democratic reforms, as a result of which Rawls' peculiar political liberalism could become gradually more applicable and more likely to be realized in Turkey. It is also argued that a more just distribution of income and wealth, which might possibly be realized through a 'property-owning democracy,' would be more conducive to democratic consolidation in Turkey.

Key Words: Rawls, justice as fairness, social liberalism, social democracy, social contract, democracy, Turkey, democratization, modernization, democratic consolidation, social justice, secularism, Kurdish issue.

ÖZET

GÜNÜMÜZ TÜRK DEMOKRASİSİ ÜZERİNE GÖRÜŞLER: RAWLS'CU BİR PERSPEKTİF

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Aralık 2009

Bu tezde, John Rawls'un 'hakkaniyet olarak adalet' anlayışı, günümüz Türkiye'sine uygulanmış olup; bu anlayış, Türkiye'nin demokratikleşme sürecini anlamlandırmak için genel bir çerçeve olarak kullanılmıştır. Rawls'un siyasal liberalizminin ve hakkaniyet olarak adalet anlayışının, demokratikleşme literatürü içinde nasıl konumlanabileceği ve daha spesifik olarak Türkiye'nin demokratikleşmesiyle nasıl ilişkilendirilebileceğinin gösterilmesi noktasında; öncelikle, demokratikleşme literatürü ile Rawls'un 'anayasal uzlaşma' ve 'örtüşen uzlaşma' kavramları karşılaştırılmıştır.

Rawls'un bahsettiği, demokratik prosedürler üzerinde bir 'anayasal uzlaşma'nın ilk aşamasının (ki bu yalnızca bir modus vivendi'dir), literatürdeki 'demokrasiye geçiş' kavramına karşılık geldiği tesbit edilmiştir. Öte yandan, anayasal uzlaşmanın nihai ve sonlandırılmış halinin 'minimalist' ve 'negatif' demokratik pekişmeye karşılık geldiği; 'örtüşen görüş birliği' kavramının ise 'maksimalist' ve 'pozitif' demokratik pekişmeye karşılık gelmekte olduğu tesbit edilmiştir.

Bu kavramları Türkiye ile ilişkilendirdiğimizde; Türkiye'nin demokratik prosedürlere ilişkin bir 'anayasal uzlaşma'nın bütün koşullarını yerine getirmede, hem tutumlar hem de davranışlar düzeyinde, bazı eksiklik ve kusurları olduğu söylenebilir. Ne var ki, Türkiye'nin demokratik prosedürler üzerinde asgari bir uzlaşmaya yaklaşmakta olduğu ve Türkiye'deki belli başlı siyasal grupların demokrasiyi benimseme sürecinde oldukları da iddia edilebilir. Türkiye'nin; Rawls'un bahsettiği anlamda bir 'anayasal uzlaşma' konusunda muhtemelen 'sınır durumu'nda olduğu iddia edilebilir; nitekim Türkiye'nin son yıllardaki Freedom House rating'leri de bu durumu destekler niteliktedir.

Türkiye'de uzun vadede Rawls'un bahsettiği anlamda bir 'örtüşen uzlaşma'nın gerçekleşebilmesine ilişkin olarak tezde dört temel konu ele alınmıştır: Temel hak ve özgürlükler, sosyal adalet, sekülerizm ve Kürt meselesi. Rawls'un 'cehalet perdesi' ve

‘adaletin iki temel prensibi’ kavramlaştırmaları, bu dört meseleye uyarlanmış ve bu kavramlaştırmaların Türkiye ile ilgili olası içerim ve uygulanma yolları tartışılmıştır. Eşitlik, karşılıklılık ve kamusal aklın etkin şekilde kullanılmasının, bu dört mesele üzerinde bir ‘örtüşen uzlaşma’ sağlanmasında oldukça büyük önem arz edeceği belirtilmiştir.

Tezde yer alan bir diğer temel ve önemli konu ise, Rawls’ın metinlerinde kanıksanmış ve doğal kabul edilmiş olan sosyo-ekonomik modernleşme meselesidir. Türkiye’nin sosyo-ekonomik düzeydeki modernleşme düzeyinin, daha uzun vadede bir demokratik pekişme yaşanabilmesi ile olan ilişkisi değerlendirildiğinde; Türkiye’nin artan milli geliri ve insani kalkınma düzeyinin, Türkiye’de demokratik pekişme için bir avantaj olacağı belirtilmiştir.

Artan modernleşme ve gelişme düzeylerinin; bunlar Türkiye’deki Avrupa Birliği süreci ile de desteklenirse, demokratikleşme için uygun bir ortam oluşturacağı; bunun sonucunda ise Rawls’un ‘siyasal liberalizm’inin Türkiye için daha elverişli ve gerçekleştirilebilir bir olasılık haline gelebileceği iddia edilmiştir. Ayrıca, Türkiye’de “sosyal adalet”in sağlanması yoluyla -ki bu hem gelirin daha dengeli dağılması hem de mülkiyet sahipliğinin yaygınlaştığı bir demokrasiye geçerlilik kazandırılması ile olabilir-demokratik pekişmenin gerçekleşebilme imkanlarının artacağı belirtilmiştir.

Anahtar Kelimeler: Rawls, hakkaniyet olarak adalet, sosyal liberalizm, sosyal demokrasi, toplumsal sözleşme, Türkiye, demokratikleşme, modernleşme, demokratik pekişme, sosyal adalet, sekülerizm, Kürt meselesi.

ACKNOWLEDGMENTS

I am very grateful and indebted to my thesis supervisor Prof. Ergun Özbudun for his patient support and wise guidance, without whose encouragement this study could not have been completed. His expertise on Turkish politics and democratization helped me immensely and enhanced the content of this dissertation. I also would like to express my gratitude to the jury members, James Alexander, Zeki Sarıgil, Bican Şahin, and Lars Vinx for their extremely valuable comments and suggestions. Each of these dynamic and brilliant scholars brought their unique vision to the project and definitely enriched my work. I will always be grateful to them. Here, I also definitely need to express my gratitude to my master's thesis supervisor, Simon Wigley, who first introduced me to Rawls' work. Besides these scholars who have been very influential in my intellectual development, my special thanks go to Lucas Thorpe, who was a student of one of Rawls' students, Samuel Freeman, and who greatly contributed to this dissertation by his guidance and support. I am indebted and grateful for all the intellectual stimulus and ambiance that Lucas made available for the people interested in political thought at Bilkent University, and for all the discussions we had on major political thinkers, including Rawls. I am also grateful to Thomas Pogge for encouraging me to do further research on the possible relations between Rawls's writings and democratization. I would like to express that I am greatly indebted to Pogge's humanistic and cosmopolitan vision and his particular way of reading Rawls. I also would like to extend my thanks to Mike Wuthrich and Marlene Denice Elwell for their unique and stimulating comments and suggestions, and also proof-reading on multiple versions of this dissertation. I would like to especially acknowledge Marlene's enormous patience, meticulousness, impressive skills of verbal and written communication, and her inexhaustible energy while helping me throughout the writing process. She is really a great editor and also a true friend. I also wish to thank each and every one of my classmates in the Political Science Ph.D. program, who supported each other during the courses and the dissertation writing process. They have been all wonderful friends to me and I will never forget their support and friendship. Finally, I would like to express my heart-felt thanks and gratitude to my dear father, mother, brother, uncles, aunts, beloved cousins, other relatives, and all of my dear friends, for their invaluable encouragement and support during my whole life and the doctorate process. Without them, nothing could have been possible. I would like to also express my special thanks to Nimet Kaya for all her support. Having thanked these valuable people for all the unique and extraordinary support they have provided to me, I would like to state that any remaining errors are mine.

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CHAPTER 1

INTRODUCTION

This dissertation presents a Rawlsian perspective on contemporary Turkish democracy. To the best of the author's knowledge, this work is the first study applying John Rawls' two principles of justice to the issues of contemporary Turkish democracy. Being a preliminary study, this research builds tentative connections between Rawls's work and Turkish democracy, which aims to lead to further discussions and studies on the issue.

Although Rawls' peculiar 'political liberalism' is only partially applicable to contemporary Turkey, it can be argued that his political liberalism, which puts forth an essentially egalitarian and social democratic approach, becomes increasingly more relevant as Turkey moves closer to norms and values of liberal democracy by virtue of EU-Turkey relations that foster social, economic, and political reforms.

This study applies the two principles of justice put forth by Rawls to four major issues in contemporary Turkish democracy. These four issues are basic political rights and liberties, social justice, secularism, and the Kurdish issue. Each of these issues is dealt with in a separate chapter throughout the dissertation with reference to Rawls's basic ideas and concepts.

It is a fact that Rawls' two principles of justice and their implications have been extensively debated in different contexts in many countries over the world, and it can be argued that these principles become increasingly more relevant for contemporary Turkey

where both liberty and equality are issues that need to be addressed. Rawls' two principles of justice, which bring together liberty and equality, follow as:

(a) Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and

(b) Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society (the difference principle)¹

These two principles are applied in this dissertation to the aforementioned four issues in contemporary Turkey, and the possibility of forming an overlapping consensus on these issues is discussed. It needs to be acknowledged that some illiberal values that are explicit or implicit in Turkish political culture might possibly hinder the formation of an overlapping consensus on these issues in Turkey; however, it is also a fact that historically speaking, cultural pluralism, tolerance, (republican) equality, and social state are values that are more or less embedded in Turkish political practices. These values may be systematized and politicized within the liberalizing scheme of contemporary Turkish democracy. This study, in this regard, is an attempt to make a modest contribution to the debates concerning the recently transforming and soul-searching Turkish democracy by bringing in the Rawlsian principles and their implications for Turkey.

As to my position concerning the overall Rawlsian legacy, I would like to note that while I am convinced of the contemporary relevance of Rawls' justice as fairness for contemporary societies, I am not necessarily committed to every aspect of Rawls's

¹ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, p.42.

political system, and diverge from Rawls, especially on the issue of global justice. While Rawls applies the veil of ignorance first within nation-states and then globally to 'peoples' living in nation-states, I believe that the opposite should be done. That is to say, the veil of ignorance should first be applied globally and then possibly at the national or local levels. Such a revision in priority would secure justice for all individuals, regardless of which nation-states they live in.

Such a global and cosmopolitan view would not negate the reality of nation-states; in fact, it would acknowledge their existence and great influence in international relations, yet would argue that the national borders, although politically relevant, are morally irrelevant in terms of justice. In this regard, the author is close to the views of Thomas Pogge on global justice and reads Rawls and his legacy in a revisionist manner as does Pogge.² Thus, the author acknowledges the urgency of global justice and the pressing need for new global institutions in order to secure global justice. However, this issue is not the main topic of this dissertation. Here, it would suffice to say that the author is convinced that the veil of ignorance and justice as fairness should be applied first to the basic structure of the world system, and only after the justness of the global institutions is secured, justice as fairness could possibly be applied to smaller scales such as states, cities, municipalities, etc. This likely would require working back and forth until some equilibrium is reached. A reflective equilibrium needs to be sought between global and local.

In this regard, the author considers his ethical and political reflections on Turkish politics as part of a more general political reasoning and tries to develop his arguments in a way that would not be contrary to the possible implications of a veil of ignorance at a

² See Pogge, Thomas. 1989. *Realizing Rawls*. Ithaca and London: Cornell University Press.

global level. The issue of global justice is problematized at a general level in Chapter 2 where Rawls is contrasted with cosmopolitans like Pogge.

As for adding to the literature base, this study makes three main contributions. The first one is that this study makes a modest theoretical contribution to the literature on Rawls by analyzing Rawls' conceptions of constitutional consensus and overlapping consensus as to how these two conceptions could possibly be compared to the central concepts in the democratization literature. The issue of democratization in Rawls' writings is an unstudied area within the literature, which requires building connections between political philosophy and political science. In this regard, Chapter 3 is a preliminary attempt to make connections between Rawls' constitutional consensus and overlapping consensus and the relevant concepts in the democratization literature.

The second contribution of this study is that it applies the major Rawlsian concepts, including constitutional consensus and overlapping consensus, to Turkish democracy. The relevance of constitutional consensus and overlapping consensus for Turkey are discussed within the context of democratization and a possible democratic consolidation in this country (Chapter 4). On the other hand, the possibility of forming an overlapping consensus in Turkey on issues of social justice, secularism, and the Kurdish issue are discussed, respectively, in Chapter 5, Chapter 6, and Chapter 7.

The third contribution of this study is that following certain interconnections between Rawls and modernization (theory), this study presents Turkey's recent socio-economic and political development and discusses the possibility of democratic consolidation in Turkey in the coming years with reference to Turkey's current GNI per

capita, Gini coefficient (income distribution), HDI (Human Development Index), and Freedom House ratings (Chapter 8).

A more detailed account of the three specific contributions of this study is presented below. Concerning each of the three contributions of this study, initially some background information is given and later the major conclusions reached in the study are presented.

Concerning the first contribution of this study, it needs to be mentioned that Rawls puts forth two successive stages in *Political Liberalism* in order to form a possible overlapping consensus on a particular conception of justice. The first stage would be a constitutional consensus and the second stage would be an overlapping consensus. He argues that a constitutional consensus could first start as a ‘modus vivendi,’ and then turn into a finalized and internalized constitutional consensus in time. Rawls presents the following critical question concerning how a modus vivendi could possibly turn into a constitutional consensus within time:

How might a constitutional consensus come about? Suppose that at a certain time, because of various historical events and contingencies, some liberal principles of justice are accepted as a mere modus vivendi, and are incorporated into existing political institutions. This acceptance has come about, let us say, in much the same way as the acceptance of the principle of toleration came about as a modus vivendi following the Reformation: at first reluctantly, but nevertheless as providing the only workable alternative to endless and destructive civil strife. Our question then is this: how might it happen that over time the initial acquiescence in a constitution satisfying these liberal principles of justice develops into a constitutional consensus in which those principles themselves are affirmed?³

In relation to a finalized constitutional consensus, Rawls notes that in order for a constitutional consensus to be complete, three conditions need to be met:

³ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.159.

- A clear definition of the basic political rights and liberties in the constitution
- The common and effective use of public reason in political matters
- The prevalence of cooperative virtues in political life⁴

Rawls states that a constitutional consensus would be neither deep nor wide in content and would be confined to the basic political rights and liberties. He notes that a constitutional consensus would not cover all basic rights and liberties but only those that are related to the procedures of democratic government, such as elections, voting, the right to form political associations, etc.⁵ On the other hand, Rawls notes that an overlapping consensus on a conception of justice would be both deep and wide in its implications, and would imply the existence of a popular consensus on the justness of the basic structure of a society. Rawls notes that when an overlapping consensus in a country is achieved, this would denote that the majority of the citizens in that country are convinced that the political and social institutions in their country are just and fair, and that they can participate in the polity without any major inequality that could possibly undermine their self-efficacy or self-respect as citizens.⁶

In relation to Rawls' depiction of the initial stage of constitutional consensus, finalized constitutional consensus, and the eventual overlapping consensus, three conclusions are presented in the dissertation. The first one is that the initial stage of constitutional consensus (being only a *modus vivendi*) conceptually corresponds to 'democratic transition' in the democratization literature. The second conclusion is that

⁴ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.161-164.

⁵ Ibid. p.159.

⁶ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, pp.139-140.

finalized constitutional consensus conceptually corresponds to ‘minimalist’ and ‘negative’ democratic consolidation. The third conclusion is that overlapping consensus conceptually corresponds to ‘maximalist’ and ‘positive’ democratic consolidation. It should be noted that Rawls’ emphasis on social justice and popular participation in order to secure long-run stability in a polity can be considered as a relatively maximalist aspiration. In fact, it can be argued that there exists a dynamic tension within the Rawlsian project between Rawls’ emphasis on minimalist democratic procedures, which he praises as part of the liberty principle, and Rawls’ more maximalist aspirations that stem from the difference principle, as well as his overall concern for long-run stability. Below is shown the findings of this dissertation concerning Rawls’ conceptions of ‘constitutional consensus’ and ‘overlapping consensus’ and what they correspond to in the democratization literature.

RAWLS’ CONCEPTIONS	THEIR IMPLICATIONS	WHAT THEY CORRESPOND TO IN THE DEMOCRATIZATION LITERATURE
Initial Stage of Constitutional Consensus →	Democratic procedures and institutions incorporated into the political system as a ‘modus vivendi’ =	<i>Democratic Transition</i>
Finalized Constitutional Consensus →	Popular consensus on democratic procedures and institutions, which is secured by civic political culture =	<i>Minimalist / Negative Democratic Consolidation</i>
Overlapping Consensus →	Popular consensus on a political conception of justice, and thus prevalence of deep political legitimacy and long-run stability within the polity =	<i>Maximalist / Positive Democratic Consolidation</i>

Table 1: ‘Constitutional Consensus’ and ‘Overlapping Consensus’ Compared with the Democratization Literature

Regarding the second contribution of this study, it needs to be stated that except for some causal references on the relevance of Rawls for Turkish democracy in the literature such as those made by Hünler (1997) and Keyman (2003), books or dissertations that specifically problematize or propose connections between Rawls and Turkish democracy have not been published thus far. This study, in this regard, is a preliminary attempt that may contribute to further studies in the coming years as Turkish democracy possibly develops further and moves closer to the norms of liberal democracy.

Concerning the relevance of Rawls' conceptions of *modus vivendi*, constitutional consensus, and overlapping consensus to Turkish democracy, the following three conclusions are presented in Chapter 4:

I. Turkish democracy started as a 'modus vivendi' among rival groups during the transition to multi-party democracy in 1946. That is to say, democracy depended on the balance of power among the political groups. The rivalry between the DP (Democratic Party) and the CHP (Republican People's Party), as well as between civil authority and the military, made the democratic regime a matter of the relative conditions of the time; and thus, the transitional period was rather fragile.

II. After Turkey became a candidate country for EU membership, the governments carried out the EU harmonization reforms mostly by broad consensus, and met the political requirements of the Copenhagen Criteria as of 2004, and thus moved closer to meeting the requirements of a constitutional consensus. Turkey gained further ground in securing the basic political rights and liberties (especially during 2001-2004), the better

use of public reason in public discussions, as well as a general increase in cooperative virtues in political forums. Despite these relative improvements, it can be argued that due to the continuing problems related to rule of law, the military influence in politics which will be discussed especially in Chapter 4, and the unconsolidated nature of cooperative virtues among the political groups in Turkey, it seems that Turkey as of 2009 is probably a 'borderline case' in terms of constitutional consensus. It can be argued that the next few years will provide a better opportunity for observers of Turkish politics to decide whether Turkey has passed the threshold in terms of meeting the three criteria of constitutional consensus.

Before discussing the conclusions reached in this study concerning the relevance of overlapping consensus to Turkish democracy, one point should be clarified here, which is that Rawls puts forth overlapping consensus as a stage that would normally follow a finalized constitutional consensus; however, it seems that these two stages in certain countries might possibly progress in a simultaneous manner. This might be considered as a non-ideal or perhaps even an anomalous situation; however, it can roughly be compared to the fact that certain developing countries face issues of *post-modernity* while they are still modernizing.

It can be argued that in a country in which a constitutional consensus does not yet fully exist, there could possibly be certain issues on which an overlapping consensus prevails among the major social and political groups. For instance, a country that is still trying to settle basic political rights and liberties might possibly have a consensus on issues such as distribution of wealth, gender, or religious matters as a result of certain political values in that country that might principally not contradict or negate the basic

principles of liberal democracy. In this regard, it can be argued that although Turkey might not yet have a full constitutional consensus, this factor should not prevent the citizens from discussing the possibility of an (overlapping) consensus pertaining to just institutions concerning distribution of wealth, secularism, or ethnic relations.

Another issue that needs to be clarified is related to the operationalization of Rawls' conception of overlapping consensus. Although Rawls puts forth overlapping consensus as a single concept, it can be argued that it practically implies multiple issues. That is to say, the formation of an overlapping consensus would require a consensus on many diverse issues. In this regard, there could be an overlapping consensus on distribution of justice in a certain country, but this would not necessarily guarantee an overlapping consensus on ethnic relations, or other issues. Therefore, an overlapping consensus needs to be thought of as an issue with multiple and possibly uneven components. At a given time, every component or issue relevant to forming an overlapping consensus might possibly be at a different and unequal level of discursive, legal, or practical development.

III. Concerning overlapping consensus, it is argued in this dissertation that Turkish democracy needs to have a consensus on four major issues to be a just state. These issues are basic rights and liberties, social justice, relations between state and religion (the issue of secularism), and just institutions and practices concerning ethnic relations in Turkey, especially the democratic solution of the Kurdish issue.⁷ It is argued in this dissertation

⁷ It needs to be noted that according to Rawls, while basic political rights and liberties are the subject matter of 'constitutional consensus,' substantive rights and liberties pertaining to the political and social realm are the subject matter of 'overlapping consensus' (an overlapping consensus, if it can be achieved, is

that the political legacy in Turkey is not devoid of deep-seated values such as cultural pluralism, toleration, (republican) equality, and social state. I argue that these already existing values, along with values that are being internalized by virtue of the EU-Turkey relations, could possibly be utilized while forming an overlapping consensus on a conception of justice in contemporary Turkey.

Concerning the third contribution of this study, a chapter is devoted to an analysis of the relation between socio-economic development and democratic consolidation in light of the findings and insights of modernization theory (Chapter 8).⁸ It is argued in that chapter that Turkey is becoming closer to meeting the minimal requisites of socio-economic modernization, thus increasing its chances of having a sustainable democracy. Based on the World Bank, UN, and Freedom House criteria, it is noted that Turkey today is in fact very close to reaching the threshold of the following four:

- ‘High’ GNI per capita (Gross National Income per capita),
- Relatively lower inequality of income (possibly low-middle inequality),
- ‘High’ HDI (Human Development Index),
- ‘Free’ rating in the Freedom House report .

Turkey’s recent scores in these four areas present a very interesting picture. They lead one to think that Turkey might possibly be at the threshold of making a leap to high socio-economic and political development. Overall, it seems that Turkey is quite close to meeting the *minimal* requisites of becoming a country with ‘high income per capita,’ ‘low-middle level of income inequality,’ ‘high human development,’ and a ‘free’ political regime. What we mean by this can be seen more clearly in the following table.

depicted by Rawls as a process to follow constitutional consensus). Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.159-164.

⁸ The relation between Rawls’ writings and modernization is discussed in Chapter 8.

In view of Turkey's recent ratings and the possibility of a democratic consolidation in Turkey, it is argued in Chapter 8 that if a democratic constitution that relies on wide popular support and legitimacy can be successfully passed in the coming years in Turkey, it might possibly move Turkey closer to a 'free' rating (≤ 2.5). It is also noted that Turkey's achieving and, more importantly, sustaining such a rating for a couple of years, especially with the EU's active support and inclusive policies, can signal the beginning of Turkey's transcending the 'partly-free' authoritarian regime and eventually reaching a genuine and 'free' democracy.

One can argue that the countries that are within the 2.0-3.0 range in terms of the Freedom House rating are countries which have a certain acquaintance with liberal democracy and are trying to become rooted in this regime type. These countries are the ones that most need clarification of the underlying principles that regulate their political and social institutions. They need continuous discursive practices in order to reach reflective equilibrium on different issues pertaining to the basic political structure. In this regard, this particular study is an attempt to contribute to political and ethical debates concerning the basic political structure of Turkey and Turkish democracy from a Rawlsian perspective. In order to be able to follow the basic arguments in this study, some basic knowledge of Rawls's work is necessary, which is presented in the chapter that follows.

CHAPTER 2

RAWLS' BASIC CONCEPTS

John Rawls (1921-2002) was an American political philosopher who has been quite influential, especially in the Anglo-American world after he published *A Theory of Justice* in 1971. This book revitalized the concept of 'social contract' within the liberal tradition with reference to both liberty and equality. Rawls' second book *Political Liberalism*, which he published in 1993, also provoked many discussions on democracy and liberalism. In that book, Rawls' basic concern was to formulate a political system that could accomodate pluralism in modern societies. The major concepts Rawls used in *Political Liberalism* are social contract, justice, justice as fairness, public use of reason, the priority of the right over the good, pluralism, toleration, well-ordered society, constitutional consensus, and overlapping consensus.

Rawls' 'political liberalism,' which in substance presents a social democratic approach, has been influential not only in English-speaking countries, but also in various democratizing countries, including China and Eastern European countries. Rawls is increasingly read also in Turkey, where some of his books have recently been translated into Turkish.¹² It can be argued that Rawls' ideas about prioritizing justice (making the worst off better) and his arguments for pluralism and toleration are quite relevant for Turkish democracy.

¹² Rawls, John. 2003. *Halkların Yasası ve "Kamusal Akıl Düşüncesinin Yeniden Ele Alınması."* İstanbul: Bilgi Üniversitesi Yayınları, and Rawls, John. 2007. *Siyasal Liberalizm.* İstanbul: Bilgi Üniversitesi Yayınları. To the best of my knowledge, *A Theory of Justice* has not yet been translated into Turkish.

References to Rawls could be quite relevant and beneficial for the establishment of a just, legitimate, and contract-based state in Turkey. The issue of social contract, which is central to Rawls' writings, is especially critical for Turkish democracy since it can be argued that the legitimacy of a state is directly related to whether or not it has a contractual character in the eyes of its citizens.¹³ The basic institutions of a state, in order to be taken as just and legitimate, need to be structured in such a way that the citizens consider them as such. Rawls' statement that society should be a 'fair system of cooperation' refers to the reciprocal and contractual basis of a well-ordered, liberal state.

It can be said that Rawls' foremost political interest is justice, and his political proposal in order to secure justice is a system termed 'justice as fairness,' which will be explained below.

2.1 Justice as Fairness

In *A Theory of Justice*, Rawls asks the question of what is the best conception of justice and inquires about possible answers to this question. Several answers were given to this question at the time Rawls was writing this book. The major attitude within the liberal tradition was the utilitarian approach.¹⁴ In the book, Rawls inquires into the implications of utilitarianism and points to the flaws of this approach, and eventually puts forth his own conception of justice that he calls "justice as fairness." In the coming section, how Rawls views utilitarianism will be briefly mentioned, and then his understanding of justice as put forth in *A Theory of Justice* will be explained.

¹³ This is no doubt a liberal view.

¹⁴ Talisse, Robert B. 2001. *On Rawls*. Belmont, CA: Wadsworth, p.24.

2.1.1 The Utilitarian Approach versus Rawls

While Rawls was writing *A Theory of Justice*, the dominant conception of justice within liberalism was the utilitarian approach. Historical figures such as John Stuart Mill and Bentham were the main figures of this trend. According to this approach, the aim of a conception of justice is to “maximize satisfaction (and minimize dissatisfaction) for the greatest number of persons possible.”¹⁵ Rawls puts the aim of utilitarianism as such:

The main idea [of utilitarianism] is that society is rightly ordered, and therefore just, when its major institutions are arranged so as to achieve the greatest net balance of satisfaction summed over all the individuals belonging to it.¹⁶

Utilitarianism relies on the theory of value known as “hedonism.”¹⁷ According to hedonism, the only intrinsic value to be pursued is to increase pleasure and to decrease pain. Utilitarianism aims for the application of hedonism to the most possible number of people in the society in an aggregate manner. It is interested in aggregate satisfaction among the population without considering how it is allocated among the individuals. It may possibly be interested in allocation problems as long as this issue is related to general utility. However, in this manner, Rawls argues that “utilitarianism does not take seriously the distinction between persons.”¹⁸

In this regard, Rawls argues that the priority of certain basic rights is also not taken seriously by utilitarians. In fact, according to utilitarians, certain rights should be protected to the extent that they serve social utility, which implies they can be negotiated or conceded whenever it is appropriate for the social benefit. Rawls says this is

¹⁵ Ibid., p.25.

¹⁶ Rawls, John. 1999. *A Theory of Justice* (revised edition). Cambridge: Harvard University Press, p.20.

¹⁷ Ibid., p.24-25.

¹⁸ Ibid., p.24.

unacceptable since certain basic rights and liberties are valuable in themselves and they should not be contingent upon social conditions or any calculus of social utility. For Rawls, liberty, individuality, and freedom are to be secured in their own right and should not be violated for social concerns. To provide an example, according to utilitarianism, a minority within a country can be deprived of its rights if it would increase the aggregate utility within that country. Against such a possibility, Rawls would argue that the rights of the minority is inviolable and needs to be fully protected by the state. This is where Rawls radically differs from the utilitarians.

2.1.2 The Social Contract Approach and Rawls

The idea of the social contract is supported by figures such as Locke, Rousseau, and Kant. In their political writings, these authors try to explain and justify the conditions of how the state, as a political association, emerged. They argue that people were living in a 'state of nature' before the states emerged, and every person was in a position to protect his/her life and property by his/her own power. This used to cause a lot of inconvenience for the individuals, so they thought that a political association to whom they would give up their individual power would protect their life and property more conveniently. In this regard, Locke argued:

To avoid this state of war...is one great reason of men's putting themselves into society, and quitting the state of nature, for where there is an authority, a power on earth, from which relief can be had by appeal, there the continuance of the state of war is excluded...¹⁹

¹⁹ Locke, John. 1988. *Two Treatises on the Government*. Cambridge: Cambridge University Press, p.21.

The contract theory is criticized by some authors arguing that, in history, no such contract ever took place. As a response to this, contract theorists argue that social contract need not necessarily be an anthropological reality, but it is rather a hypothetical contract, which refers to the *consent* of the people for the existence of their state. In this regard, it is “a way of thinking about politics.”²⁰ It can be said that Rawls revived the contractual way of thinking about politics. However, it should be noted that Rawls’ use of the idea of a social contract in his writings is different from the above mentioned writers in some important respects.

First of all, Rawls does not use the idea of contract to explain or justify the emergence of political association, but he seeks a conception of justice that is implicit in liberal democracies and which “best approximates our considered judgments of justice and constitutes the most appropriate moral basis for a democratic society.”²¹ Rawls uses the idea of a social contract (which he substantiates by a mechanism called ‘veil of ignorance’) as a ‘device of representation’ to expose his conception of justice.²² Rawls’ concept of ‘original position,’ it can be argued, corresponds to the ‘state of nature’ in the contractual tradition.²³ However, Rawls’ ‘state of nature’ is in no way a model of the natural condition of the people at some distant anthropological time but rather it is a way to think about justice for *today*. It gives people the chance to think and reflect upon how justice should ideally be realized in a democratic society. Rawls notes every one can possibly expose himself/herself to the ‘original position’ at any time in order to be able

²⁰ Talisse, Robert B. 2001. *On Rawls*. Belmont, CA: Wadsworth, p.31.

²¹ Rawls, John. 1999. *A Theory of Justice* (revised edition). Cambridge: Harvard University Press, p.xviii.

²² Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.25.

²³ Talisse, Robert B. 2001. *On Rawls*. Belmont, CA: Wadsworth, p.32.

to think more clearly and systematically about how institutions in contemporary societies should be arranged in a just way.

2.1.3 The ‘Original Position’ and the ‘Veil of Ignorance’

According to Rawls, a fair conception of justice can only be reached when one is exposed to the ‘original position,’ which is a hypothetical situation where “no one knows his place in society, his class position, or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like.”²⁴ Rawls states that no one in such a position knows about his/her particular “conception of the good.”

The aim of the ‘veil of ignorance’ is to get rid of social contingencies that are ‘morally arbitrary’ and to give people a chance of ‘impartial’ understanding of a fair conception of justice. Under such conditions, no one will know what kind of particular advantages or disadvantages they will have; therefore, Rawls assumes parties will choose a conception of justice in a rational manner. For example, under such conditions, a statement such as ‘only the most intelligent should rule,’ or ‘only the richest people should rule’ would most probably be rejected by individuals simply because individuals do not know their own level of intelligence or wealth under the ‘veil of ignorance.’

An objection to the very possibility of such a ‘veil of ignorance’ problematizes what exactly will motivate the parties in the veil of ignorance if they are devoid of all their contingent social identities. To put it another way, if individuals in the veil of ignorance are devoid of all features that make them a particular person, then how will they know that they affirm or do not affirm a particular conception of justice. To this

²⁴ Rawls, John. 1999. *A Theory of Justice* (revised edition). Cambridge: Harvard University Press, p.11.

objection, Rawls puts forth the ‘thin theory of the good’ according to which there are certain ‘primary goods’ which “normally have a use whatever a person’s rational plan of life.”²⁵ Primary goods are things that everyone would normally want. These are things like rights, liberties, and opportunities, and income, and wealth,” and “self-respect.”²⁶ The parties in the original position “assume that they normally prefer more primary goods than less.”²⁷ In the original position, people would choose as much of the primary goods as possible to reach their basic life goals. It could be said that the ‘thin theory of the good’ clarifies the basis of the parties’ motivations and choices, and contextualizes the parties under the ‘veil of ignorance’ as rational actors who have some natural interests. Here, an important point that needs to be pointed out is that Rawls assumes people who are under the veil of ignorance have no envy or feelings of comparing oneself with others which could distract them from rational and fair judgment.

2.1.4 The Principles of Justice

It is Rawls’ conviction that the parties who are exposed to the original position, as rational actors, would choose two principles of justice for themselves. These would be:

The First Principle of Justice:

“Each person has the same infeasible claim to a fully adequate scheme of basic liberties, which scheme is compatible with the same scheme of liberties for all [the liberty principle]; and

The Second Principle of Justice:

²⁵ Ibid., p.54.

²⁶ Rawls, John. 1999. *A Theory of Justice* (revised edition). Cambridge: Harvard University Press, p.54.

²⁷ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.123.

“Social and economic inequalities are to satisfy two conditions: first, they are to be attached to positions and offices open to all under conditions of fair equality of opportunity [equal opportunity principle]; and second, they are to be to the greatest benefit of the least advantaged members of society [the difference principle].”²⁸

Rawls puts forth two lexical priorities concerning the two principles. The first is that the liberty principle has a lexical priority over the second principle of justice, which practically means that “liberty guaranteed by the first principle cannot be sacrificed for social and economic gains.”²⁹ The second priority rule ensures that the equal opportunity principle has priority over the difference principle. Rawls’ liberty principle, equal opportunity principle, and difference principle are explained below.

The Liberty Principle:

According to this principle, people should have as many basic liberties as possible. As to what these basic liberties would be, Rawls notes:

Important among these are political liberty (the right to vote and to hold public office) and freedom of speech and assembly; liberty of conscience and freedom of thought; freedom of the person, which includes freedom from psychological oppression and physical assault; the right to hold personal property and freedom from arbitrary arrest and seizure...³⁰

The Equal Opportunity Principle:

This principle argues that offices and positions, which are the basis of economic and social status, should be open to all. This should not be in a formal and merely procedural

²⁸ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, pp.42-43.

²⁹ Rawls, John. 1999. *A Theory of Justice* (revised edition). Cambridge: Harvard University Press, p.55.

³⁰ Ibid. p.123.

sense but in such a way that “equal life prospects [are secured] in all sectors of society for those similarly endowed and motivated.”³¹ Rawls also says that the political institutions should be structured in such a way that people have equality of opportunity in terms of education and culture which would allow them into offices in a fair and egalitarian way.³²

The Difference Principle:

PERSONS	ALLOCATIONAL POSSIBILITIES				
	I	II	III	IV	V
A	20	40	40	30	30
B	20	10	20	40	36
C	20	10	20	25	28

Let’s assume that there are 60 primary goods to be allocated.³³ It could be either allocated equally as in Option I, in which everyone gets 20, or unequally as in options II, III, IV, V, as seen in the above table.

Rawls argues that while some unequal options such as option II, could produce results that might yield less than 20 goods for some parties (namely B and C), and therefore be unacceptable since it is against the difference principle, some unequal options such as Option IV and V might eventually yield more than 20 goods for *all*

³¹ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.265.

³² Rawls, John. 1999. *A Theory of Justice* (revised edition). Cambridge: Harvard University Press, pp.245-246.

³³ I have taken this example from Talisse, Robert B. 2001. *On Rawls*. Belmont, CA: Wadsworth., p.44. Note that the resources in this example are open to increase later on by capital investment and production.

parties.³⁴ If one is to choose between Option IV and V, according to the difference principle Option V needs to be chosen, because the least advantaged person in Option V is better off than the least off person in Option IV.

In this regard, Rawls argues that certain unequal allocational options, as long as they are beneficial for the least advantaged people of the society, might be preferable to simply allocating everything in a strictly equal manner. This social democratic approach is the core of the difference principle.

Rawls argues in *Justice as Fairness, A Restatement* that a welfare state could not possibly meet the two principles of justice because it redistributes resources only *ex poste*, and does not meet the conditions of fairness. Rawls notes in *Justice as Fairness, A Restatement* that only a property-owning democracy or a liberal (market) socialism can possibly meet the two principles of justice. Rawls' attitude on property-owning democracy, liberal (market) socialism, and other economic regimes will be discussed in greater detail in Chapter 5 which is on social justice. The next section discusses Rawls' *Political Liberalism*.

2.2 Rawls' Political Liberalism

Whereas in *A Theory of Justice*, Rawls defends his egalitarian liberalism as a universal and comprehensive world view, in *Political Liberalism*, he defends liberalism without making reference to liberalism's philosophical roots.³⁵ He argues that comprehensive

³⁴ What makes the extra gains in Option III, IV, V is the fact that some people in the society are given the chance to be entrepreneurs and eventually they produce opportunities for the whole society, which the society would not have gained if such an extra chance of gain was not given to these entrepreneurs.

³⁵ Rawls explains what he means by political as such: "In saying that a conception of justice is political, I ...mean three things...that it is framed to apply solely to basic structure of society, its main political, social, and economic institutions as a unified scheme of social cooperation; that it is presented independently of any wider comprehensive religious or philosophical doctrine; and that it is elaborated in terms of

liberal theories like those of Locke, Jefferson or Mill justify liberal principles by reference to a deep “philosophical” background like theology or utilitarianism. Rawls argues his *political* liberalism, however, does not rely on any deep philosophical foundation, but it simply affirms the “tradition of democratic thought” (in a pragmatist manner).³⁶ “It deliberately stays on the surface, philosophically speaking,” it tries to “leave aside philosophy’s longstanding problems”³⁷ (which are controversial).

2.2.1 Rawls and the Political

According to Rawls, “the political values” have a priority and superiority to private, associational, and familial values. Since politics determines the basic structure of the society, the ‘political’ overrides the other realms of value systems, and that other value systems, he argues, need to compromise when it is politically necessary. Rawls makes the distinction between the political and non-political as such:

The political is distinct from the associational, which is voluntary in ways that the political is not; it is also distinct from the personal and the familial, which are affectional, again in ways the political is not. (The associational, the personal, and the familial are simply three examples of the non-political; there are others).³⁸

Rawls argues that the comprehensive doctrines in a modern society are so profoundly different from each other in their basic philosophical, religious, and epistemological premises that they cannot be easily reconciled; therefore, while designing the basic

fundamental political ideas viewed as implicit in the public culture of a democratic society.” (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.223.)

³⁶ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.14.

³⁷ Ibid., p.10.

³⁸ Ibid., p.137.

institutions of a society, these deep differences should be put aside, and priority should be given to the common political values.³⁹

2.2.2 The Issue of Pragmatism

It can be argued that Rawls in *Political Liberalism* takes a 'pragmatist' position. He states that he presents his liberal position not by reference to deep philosophical references on human nature and self, but to the political practices of contemporary democratic countries.⁴⁰

Rawls argues that since many people are living in societies that are very diverse in terms of religious, philosophical, or moral views (which he calls comprehensive doctrines), there could be no comprehensive doctrine to which all or the majority of the people would give consent to. Therefore, he concludes that there is a need to find a practical solution in such a pluralist society that would enable all these different people to live peacefully under a political system. Rawls argues this quest could only be realized through a politically liberal state where citizens see each other as free and equal citizens and decide together on issues of basic structure. In such a political system, people would be expected to bring forth their arguments relying on common sense and public reason, and in the public forums they would be expected to express their arguments in a way that others can reasonably accept.

Rawls says a liberal conception of justice can be accepted by people from different comprehensive views in such a way that every one views and justifies this

³⁹ Rawls states: "By avoiding comprehensive doctrines we try to bypass religion and philosophy's profoundest controversies so as to have some hope of uncovering a basis of a stable overlapping consensus." (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.152.)

⁴⁰ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.8.

principle of justice from within his/her own comprehensive doctrine. He notes that in order for this to be relevant, comprehensive doctrines need to become liberalized over time to such an extent that these comprehensive doctrines would somehow allow for a politically liberal conception of justice. Rawls notes that in a liberally democratic state, all comprehensive doctrines, which respect and tolerate the existence of others and acknowledge reciprocity, could be considered as 'reasonable' comprehensive doctrines. He argues that as the majority of the comprehensive doctrines in a society become reasonable, a 'constitutional consensus' among the people can possibly be reached. The concept of 'constitutional consensus', along with the concept of 'overlapping consensus,' will be explained in the coming pages.

The next section deals with Rawls' views on international relations and global justice, which have led to many debates and controversies. Throughout the section, Rawls' views on global justice are contrasted with those of cosmopolitans such as Pogge.

2.3 Rawls' Views on International Relations

In *Law of Peoples*, Rawls extends 'justice as fairness' to the international order. In that book, Rawls proposes to apply the original position to the international relations. In fact, in *Law of Peoples*, Rawls proposes two original positions. The first one is domestic, in which individuals within a self-enclosed society go under a veil of ignorance and decide for themselves the just principles for arranging the institutions of their society. The second original position comes after the domestic one and it is international. The parties

in the second original position are representatives of “peoples” who would go under the original position and decide just and fair rules for the relations between the “peoples.”⁴¹

In *Law of Peoples*, Rawls sorts out five kinds of domestic societies (‘peoples’):

1. Reasonable liberal peoples,
2. Decent peoples (they are not aggressive, and they have a “decent consultation hierarchy” or are generally decent by virtue of some other political mechanisms),⁴²
3. Outlaw states,
4. Societies burdened by unfavorable conditions,
5. Benevolent absolutisms (which Rawls says “honor human rights; but, because their members are denied a meaningful role in making political decisions, they are not well-ordered”).⁴³

Rawls calls the first and second category of societies, namely liberal peoples and decent peoples as “well-ordered societies.” Rawls argues that we need to aim at a Society of Peoples⁴⁴ consisting of both liberal and decent peoples who “follow the reasonably just Law of Peoples in their mutual relations” by virtue of an overlapping consensus (instead of a mere *modus vivendi*).⁴⁵ Rawls suggests that the Society of Peoples need to use

⁴¹ Rawls notes the parties subjected to the veil of ignorance “do not know, for example, the size of the territory, or the population, or the relative strength of the people whose fundamental interests they represent” (Rawls, John. 2001. *The Law of Peoples*. London: Harvard University Press, p.32.)

⁴² Rawls clarifies what he means by ‘decent’ peoples: “provided a non-liberal society’s basic institutions meet certain specified conditions of political right and justice and lead its people to honor a reasonable and just law for the Society of Peoples, a liberal people is to tolerate and accept that society. In the absence of a better name, I call societies that satisfy these conditions as *decent* peoples. (Rawls, John. 2001. *The Law of Peoples*. London: Harvard University Press, pp.59-60).

⁴³ Rawls, John. 2001. *The Law of Peoples*. London: Harvard University Press, p.4.

⁴⁴ Rawls calls the idea of a Society of Peoples as a “realistic utopia” (Rawls, John. 2001. *The Law of Peoples*. London: Harvard University Press, p.4.)

⁴⁵ Rawls, John. 2001. *The Law of Peoples*. London: Harvard University Press, p.19.

public reason in justifying their actions to other members of the Society, and behave in reasonable ways.⁴⁶

Rawls suggests that the basic rules of just and fair relations between peoples would be close to the following rules that are part of “traditional principles of justice among free and democratic peoples”:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. People are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but no right to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime.⁴⁷

Rawls notes that the decent peoples need to be tolerated, and they should not be coerced to liberalism but be allowed to continue in their own political ways as long as they abide the rules of the Society of Peoples. On the other hand, Rawls notes that in relations with outlaw states or in cases of grave violations of human rights, the fourth principle, non-intervention, has to be qualified in favor of intervention.⁴⁸

⁴⁶ Ibid., pp.19, 33.

⁴⁷ Ibid., pp.36-37.

⁴⁸ Rawls, John. 2001. *The Law of Peoples*. London: Harvard University Press, p.37.

Rawls argues that the long-term goal of (relatively) well-ordered societies is somehow to bring the outlaw states, as well as burdened societies, into the Society of well-ordered Peoples.⁴⁹ Rawls defines burdened societies as such, and formulates the conditions of assistance to them as such:

Burdened societies, while they are not expansive or aggressive, lack the political and cultural traditions, the human capital and know-how, and often, the material and technological resources needed to be well-ordered (...) Well-ordered peoples have a *duty* to assist burdened societies. It does not follow, however, that the only way, or the best way, to carry out this duty of assistance is by following a principle of distributive justice to regulate economic and social inequalities among societies. Most such principles do not have a defined goal, aim, or cut-off point, beyond which aid may cease.

The levels of wealth and welfare among societies may vary, and presumably do so; but adjusting those levels is not the object of the duty of assistance. Only burdened societies need help.⁵⁰

It can be seen that Rawls limits the global redistribution to assisting peoples until a point at which they can domestically establish just institutions and sustain themselves as liberal or decent peoples. Rawls argues there needs to be a certain cut-off point regarding the assistance, and this cut-off point would be the level where a people can stand on their own feet and sustain just institutions as liberal or decent societies. Rawls contrasts this minimal view of assistance with cosmopolitans who argue that the difference principle should be applied globally and that the well being of the globally worst-off people need to be improved.⁵¹ Rawls notes his view differs from such a position and it is limited to assistance for allowing burdened societies to stand on their own as liberal or decent societies.

Rawls' views in *Law of Peoples* disappointed many of his readers due to their relatively conservative implications in international relations. Some cosmopolitans such

⁴⁹ Ibid., p.105.

⁵⁰ Ibid., p.106.

⁵¹ Ibid., p.120

as Pogge criticized Rawls' suggestion of two original positions and instead suggested a 'single, global original position.'⁵² Pogge argues that economies of contemporary societies are not enclosed or self-sufficient but are interdependent. He argues that Rawls overlooks this interdependence in relation to the establishing just background institutions.

In the next part, the issue of global justice is discussed, which is based on the contrasting views of Rawls and Pogge on the issue.

2.3.1 Global Justice

In a world economy, national conditions are basically determined within the international economic order and the global institutions are decisive in people's lives wherever they live. In this regard, it is important to reflect upon global justice and how the basic structure at the global level could possibly be made more just.

Concerning global justice, Rawls in *Law of Peoples*, as mentioned in the previous section, argues that veil of ignorance and 'justice as fairness' should be applied first at the domestic level, and then at the global level.⁵³ However, this position is challenged by Pogge arguing that this is against the individualist nature of Rawls' project and it would require that the veil of ignorance be applied in a "single, global, original position."⁵⁴

Pogge's position is apparently a cosmopolitan and individualist defense of justice that strives for global background justice for all individuals wherever they live. As noted in the Introduction, the author of this dissertation is convinced that such a cosmopolitan approach to global justice would be morally more coherent and persuasive and better

⁵² Pogge, Thomas. 1989. *Realizing Rawls*. Ithaca and London: Cornell University Press, p.247.

⁵³ Rawls, John. 2001. *The Law of Peoples*. London: Harvard University Press, pp.130-135.

⁵⁴ Pogge, Thomas. 1989. *Realizing Rawls*. Ithaca and London: Cornell University Press, p.247.

aligned with the individualist nature of Rawls' search for justice, in which contingencies in terms of territorial borders need to be considered morally irrelevant.

Pogge argues that the wealthy nations have a negative duty, rather than a positive duty towards the poor people in the world, which means that rather than doing something for them, they should just refrain from continuing the international mechanisms that lead to further inequalities.⁵⁵ Pogge argues that the global institutions need to be reformed to alleviate the problems of poverty, hunger, disease, illiteracy, etc.

Pogge devises a modest proposal, the Global Resource Dividend (GRD), according to which "those who make more extensive use of our planet's resources should compensate those who, involuntarily, use very little."⁵⁶ Pogge suggests that GRD should be paid to an international fund. Pogge argues that "1% of the global product, may be needed so that it does not take all too long until severe poverty is erased and an acceptable distributional profile is reached."⁵⁷ Pogge notes that this is only a modest starting point and is an option among many possible options. He says it is a multi-disciplinary task to work out the institutional mechanisms for a globally just world. It is observed that Pogge's search for global justice receives much attention from people

⁵⁵ Pogge, Thomas. 2001. Eradicating Systemic Poverty: Brief for a Global Resources Dividend," *Journal of Human Development* 2(1), p.66.

⁵⁶ Ibid.

⁵⁷ Ibid., p.67. Another issue that needs to be addressed here is what the global redistribution might aim in the longer run beyond eradicating severe poverty. A modest suggestion in this regard could be that the global redistribution might aim to increase the average welfare of individuals in all the countries in the world to a level of 80.0 HDI over 100.0 (the minimum value to qualify for 'high' human development according to United Nations criteria). It should of course be assured that there are not big discrepancies between the welfare of individuals within nation states, which is a matter of Gini coefficient as well as wealth distribution, which is mentioned in chapter 5. It can be argued that beyond HDI 80.0, differences would not matter too much among either persons or nations. However, up to that point, global redistribution would be crucial in terms of human welfare. Such a vision would require both a cosmopolitan outlook as well as a radical reform of the international institutions, which needs to be discussed by experts on global economy, citizens of nation-states and political activists around the world.

interested in global justice all over the world, including Turkey.⁵⁸ Overall, it could be argued that Pogge's proposal to apply the veil of ignorance to individuals in a global way is a revisionist reading of the Rawlsian project.⁵⁹

Unlike Rawls, who favored applying the veil of ignorance at the national level first and then at the global level, a revisionist global position might imply the vice versa, which is applying the veil of ignorance first globally, and only after global justice is secured, applying it to the national level.

The next section deals with some other criticisms against Rawls' political philosophy.

2.4 Criticisms of Rawls' Political Philosophy

Within political philosophy, Rawls' contribution to the liberal democratic theory has received both positive and negative reactions. First some positive criticisms and then negative criticisms will be discussed. A positive criticism noted that Rawls' theory accomplishes the following three issues:

- a-) Justice is the constitutive value which is among all values.
- b-) The priority of right over the good guarantees certain basic liberties.
- c-) Economic and political liberty are successfully differentiated in his theory, which has positive connotations for social justice.⁶⁰

The negative reactions to Rawls' theory come from the communitarian circles, radical democrats, civic republicans, and left participatory democrats. Here, the two most

⁵⁸ Pogge's book *World Poverty* is translated into Turkish, and seems to have been well received by Turkish readers.

⁵⁹ Pogge himself considers his reading of Rawls as 'revisionist.' (Pogge, Thomas. 1989. *Realizing Rawls*. Ithaca and London: Cornell University Press, p.ix.)

⁶⁰ Keyman, Fuat. 1999. *Radikal Demokrasi*. Istanbul: Bağlam Yay., p.105.

relevant criticisms will be mentioned which are the communitarian and the radical democrat criticisms.

The so-called communitarians criticize what they see as the ‘unencumbered self’ in Rawls. They argue that Rawls’ system denies the societal basis of the individual and how the society is prior to and constitutive of the individual. Some of the communitarians who make such criticisms are M. Sandel, C. Taylor, A. MacIntyre, M. Walzer, A. Etzioni, R. Bellah, B. Barber, P. Selznick, and the like. These people have the conviction that the liberal self in Rawls’ theory is not other-regarding enough but is atomistic and egoistic. Some civic communitarians such as W. Galston and S. Macedo argue that the Rawlsian project does not give enough reference to civic, republican, communitarian values.

Sandel, as the most typical communitarian critic of Rawls, criticizes Rawls arguing that:

- The argument of ‘neutral state’ is meaningless since it cannot devoid itself of all values.
- His understanding of individuality is atomistic, egoistic.
- Democracy can only be founded around embedded and inherited democratic/ societal values.
- De-ontological liberalism is from the very onset a constitutive impossibility.
- Universalism (of liberalism) is problematic.⁶¹

On the other hand, the radical democrats, and some left participatory democrats such as Mouffe, Laclau, Bobbio, and D. Held argue that Rawls’ theory is not based on the

⁶¹ Sandel, Michael. 1982. *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press.

identity/difference principle, and that it is not inclusive enough of the so-far excluded “others.”⁶² For example Mouffe argues that the liberal democratic society should rather adopt an ‘agonistic’ liberalism, which opens the way to a more conflictual, non-essentialist, civil-societal revitalizations and contingencies. However, Mouffe leaves it open as to how the ‘rules of the democratic game’ will possibly be preserved under conditions of extreme agonistic liberalism.

Rawls actually incorporated certain elements of communitarianism and radical democracy to his Political Liberalism, probably as a result of the criticisms. It can be argued that the two strains of criticisms that are dealt above, namely the communitarian and the radical democratic criticisms, have already contributed to and in some regards transformed the Rawlsian theory, and we will see what sort of a route the contemporary debates on Rawlsian theory will take in the near future.

The last section of this chapter deals with a specific issue mentioned in the Fourth Lecture of *Political Liberalism*, namely the two successive stages of forming an overlapping consensus, which is a critical issue for the overall purpose of this dissertation. These two stages, constitutional consensus and overlapping consensus, are discussed at length in the next section.

2.5 The Stages of Forming an Overlapping Consensus

Rawls notes that forming an overlapping consensus on a conception of justice would require going through two successive stages. The first one is a constitutional consensus and the second stage is an overlapping consensus.

⁶² See Keyman, Fuat. 1999. *Türkiye ve Radikal Demokrasi*, İstanbul: Bağlam Yay.

The initial stage of a constitutional consensus Rawls argues might start as a *modus vivendi* during which a constitution guaranteeing democratic procedures of government and basic political rights and liberties is introduced (through a pact) into the political system. A *modus vivendi* emerges at a certain time period and under certain historical conditions as a solution to endless social strife, and is accepted by interest groups generally reluctantly as a matter of concession. Loyalty to democratic procedures in this stage is conditional at best, and depends on self or group interests and balance of power. In this regard, it can be argued that the initial stage of constitutional consensus implies the introduction of democratic institutions into a political system without being consolidated yet.

Rawls notes that a constitutional consensus in principle secures that the political rivalries in a country are 'moderated through democratic electoral procedures.' Rawls points out that the habituation of people within time to a liberal constitution creates a civil, democratic, and pluralist culture. In a country where constitutional consensus exists, loyalty to democratic procedures would not depend on self or group interests, but would rely on a principled acceptance of the democratic rules.

Rawls notes that a constitutional consensus, as seen in many historical cases, might first start as a *modus vivendi*. The *modus vivendi* is depicted by Rawls to be the result of a pact agreed upon by two or more parties within a country after serious internal conflicts or possibly internal wars, on some principles of a liberal conception of justice without the parties necessarily being liberal or internalizing the liberal principles to which they have diplomatically consented. Most of the time, the situation is such that no party can gain superiority over the others; therefore, they eventually consent to the so-called

modus vivendi which is in fact nothing more than a 'cease-fire' through which the elites are "...providing the only workable alternative to endless and destructive civil problems."⁶³

One can say 'modus vivendi' emerges as a pragmatist solution in the midst of harsh conflicts among irreconcilable parties, in which concessions such as the toleration principle, possibly along with some other liberal principles, are agreed upon by the parties for the sake of mere survival and co-existence without necessarily internalizing the principles that lie at the core of the consented pact. As such, modus vivendi is a strategic agreement at the base of which lies no principally accepted and long-lasting procedures for conflict resolution but only the 'balance of power' which keeps the parties from transgressing the principles they have consented to. It should be noted that the parties agreeing to modus vivendi see it not as their first-best but as a compromise (second-best option).

As an example of modus vivendi, Rawls states that the agreement between Catholics and Protestants on the principle of tolerance in the 16th century was an example of a modus vivendi situation. Historically, the Catholics and the Protestants killed each other in the long-lasting religious wars, yet at some point they realized that they had to compromise and accept the principle of "religious toleration." This principle came about as a way to live together without killing each other. Initially, neither the Catholics nor the Protestants accepted the toleration principle willingly, but they accepted it only in a diplomatic sense. To put it theologically however, neither party saw the toleration principle as the acceptance of the other party's doctrine being true. Rather, it

⁶³ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.159.

was only a political and diplomatic acceptance of the other party's existence and the necessity to tolerate them. Rawls depicts it as such:

Both faiths held that it was the duty of the ruler to uphold the true religion and to repress the spread of heresy and false doctrine. In such a case the acceptance of the principle of toleration would indeed be a mere *modus vivendi*, because if either faith becomes dominant, the principle of toleration would no longer be followed.⁶⁴

It is historically true that the toleration principle became legitimized and internalized only through the next centuries. In its initiation, it was a fragile principle that depended upon the balance of power amongst the two opposing parties. It was such that had there been any change in the balance of power to the benefit of either the Catholics or the Protestants, this could have undermined the toleration principle.⁶⁵ However, the historical contingencies unfolded in such a way that the parties observed the principle due to balance of power; and through time, the principle of toleration took its place in the constitutions of the European states and has been internalized by larger segments of the European societies through time. Thus, as a historical model, Rawls takes 16th century Europe and the status of the toleration principle in that time period as an example of a *modus vivendi* situation.

⁶⁴ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.148.

⁶⁵ Rawls puts the *modus vivendi* character of the 16th century conditions as such: "In such a case the acceptance of the principle of toleration would indeed be a mere *modus vivendi*, because if either faith becomes dominant, the principle of toleration would no longer be followed. Stability with respect to the distribution of power is lacking. So long as such views as those of Catholic and Protestant in the sixteenth century are very much in the minority, and are likely to remain so, they do not significantly affect the moral quality of public life and the basis of social concord. For the vast majority in the society are confident that the distribution of power will range over and be widely shared by views in the consensus that affirm the political conception of justice for its own sake. But should this situation change, the moral quality of political life will also change in ways that are obvious and require no comment" (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.148-149.)

2.5.1 Constitutional Consensus

2.5.1.1 The Fragility of Modus Vivendi and the Problem of Stability in the Long Run

As a political condition, modus vivendi is fragile in the sense that it is dependent upon the balance of power among the parties in a country. It is such that as one of the parties possibly gains asymmetrical power *vis-a-vis* others and convinced that the breaching of the modus vivendi condition would be more favorable for themselves, the pact convention may be breached any time by that overwhelming party. Rawls argues that a modus vivendi condition creates not a ‘reasonable pluralism’ but merely a ‘simple pluralism.’ A ‘simple pluralism’ implies that “the elites agree to refrain from things like waging war on each other, agreeing on some fair principles endorsable from within both doctrines,”⁶⁶ thus a plurality of opposing comprehensive doctrines can somehow continue living together. It should be noted, however, that in ‘simple pluralism,’ there exists no binding “procedures of conflict resolution.” Therefore, the opposing parties do not have any guarantees for reciprocal trust and political cooperation. No binding procedure or any sort of established custom precludes the parties from destroying the other(s).

The fact that modus vivendi is not a principled acceptance of some liberal procedures, but relies on a mere diplomatic consent and balance of power, makes modus vivendi a vulnerable and unstable status quo. In a modus vivendi, persons accept the status quo as a concession. In this regard, Talisse characterizes persons accepting liberalism as a modus vivendi as follows:

We may imagine persons holding diverse and incompatible reasonable comprehensive doctrines agreeing to a liberal political arrangement as a matter of

⁶⁶ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.159.

concession; such persons would endorse the political conception of justice as a second-best, less than ideal arrangement. When a citizen endorses a liberal conception of justice as a *modus vivendi*, he accepts the liberal regime as a passable compromise between what he sees as the best political arrangement (i.e., a conception of justice based solely upon his own comprehensive doctrine) and the worst (i.e., a conception of justice based solely upon a comprehensive doctrine that is incompatible with his own).⁶⁷

Rawls says that acquiescence in a liberal constitution that starts merely as a *modus vivendi* might in time turn into a constitutional consensus. Rawls contrasts a *modus vivendi* with constitutional consensus arguing that a *modus vivendi* owes its existence to the balance of power within the country, while a constitutional consensus is secured by a constitution which is consented by an overwhelming majority in a country.

For a constitutional consensus to be complete, Rawls puts forth three conditions to be met:

- A clear definition of the basic rights and freedoms, which places them beyond political conflict,
- The acceptance of a form of public reason, coherent with common sense, and necessary to apply these principles,
- The rise of cooperative virtues in politics- such as the sense of moderation and equity, and the spirit of compromise- which are themselves encouraged by the existence of the institutions and their practice.⁶⁸

⁶⁷ Talisse, Robert B. 2001. *On Rawls*. Belmont, CA: Wadsworth, p.67.

⁶⁸ For a constitutional consensus to be complete, according to Rawls, it is necessary that the upholders of different comprehensive doctrines within the country become relatively friendly with each other so that they can practice the minimums of civil cooperation, mutual trust, and requisites of public reason (while endorsing public and political matters in the political arena). For all these to be possible, it is of course necessary, as also Rawls put openly, that the comprehensive doctrines within the country become liberalized, through time, to a level where these doctrines somehow become in congruent, or at least not in conflict with the basic requirements of a liberal constitution and the basic codes of a civil republican ethos.

Rawls notes that as the comprehensive doctrines within a country become liberal enough at the procedural level and become all 'reasonable' doctrines through time, the 'simple pluralism' within the

Rawls says that a constitutional consensus is supposed to be initiated by the elites, ideally democratically elected representatives, gathering in a constitutional convention.⁶⁹

Menno Sijtsma, with reference to Rawls, expresses very well how the constitutional convention at the elite level proceeds:

In the convention, the elites deduce more and more specific regulations from some general principles of justice, which they develop by engaging in the original position. This way they formulate a constitution containing 'bare essentials,' 'thin' goods or basic rights. Once a 'constitutional consensus' is established, ever more precise laws can be deduced from the constitution, until a societal system, containing laws and institutions is created. Over time also more and more institutions may start working increasingly according to the principles of the constitution. Ultimately the whole societal basic structure may become logically coherent with the adopted principles of justice.⁷⁰

However, for a constitutional consensus to take place in a country, the constitution made by the elites has to be backed by mass support through time.⁷¹

Concerning the scope of constitutional consensus, a constitutional consensus is limited to "procedures of democratic government" which moderate political rivalry within the country. The "procedures of democratic government," which consist of the basic political rights and liberties constitute the basis of a constitutional consensus.

country turns into a 'reasonable pluralism' and thus the constitutional consensus is finally achieved (See Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.161-164.)

⁶⁹ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.336.

⁷⁰ Sijtsma, Senno. 1999. *A Proposal for Egalitarian Liberals and Others* (Graduation Thesis, University of Amsterdam). Published on http://www.antenna.nl/zin/3.Anarchisme/rawls_vs_anarchism.htm.

⁷¹ It is a fact that a constitutional consensus is initiated by the elites; however for a constitutional consensus to be complete, it is necessary that an overwhelming body of the citizens within the country internalize and politically adhere to the values of the constitution. This of course may take much longer time than the elite convergence on a particular constitution would. A transitional time period shall be necessary through which the values of the constitution is *learnt, practiced and absorbed* by the citizens (which might require an intensive political education). It is also important that citizens need to trust each other more and more as different groups begin to take the constitution for granted in their discourses and political maneuvers. This sort of an interactional trust based on mutual recognition of the constitution and its relevant political institutions is necessary for the consolidation of the constitutional consensus at the national level. Such a mutual trust at the level of political interaction would be necessary also when an overlapping consensus is trying to be built, this time however not around a constitution but around a detailed conception of justice that would guide institutional arrangements. (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.163-168.)

Rawls notes that “the constitutional consensus is not deep and it is also not wide: it is narrow in scope, not including the basic structure but only the political procedures of democratic government.”⁷² What Rawls is pointing out here is that while constitutional consensus specifies the basic political rights and liberties as bare essentials, it does not extend to economic or social issues. These issues, Rawls says, need to be regulated by laws that are supposed to be inspired by a certain conception of justice that needs to gain the overwhelming support of the citizens. Such an overwhelming support, if realized, would denote the existence of an ‘overlapping consensus’ within a certain country.

2.5.2 Overlapping Consensus

Overlapping Consensus is depicted by Rawls as a consensus among the majority of a people on a democratic conception of justice that would regulate the basic structure and institutions of a society in a just and legitimate way.⁷³ Rawls says that while the constitutional consensus is limited to only procedures of democratic government and basic ‘political’ rights, overlapping consensus extends to substantive rights and liberties, ranging from freedom of speech to freedom of conscience, various social rights, the civil code, and regulations in the society.⁷⁴ Thus, an overlapping consensus is deep and broad

⁷² Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.159.

⁷³ A conception of justice, according to Rawls, would be the subject matter of an overlapping consensus:

i) The basic structure of society is regulated by the political conception of justice
(ii) This is the focus of the overlapping consensus of reasonable comprehensive doctrines
(iii) Public discussion, when constitutional essentials and questions of basic justice are at stake, is conducted in terms of the political conception of justice. (Taken from <http://www.annewitton.org.uk/overlapping.html>.)

⁷⁴ Rawls differentiates freedom of *political* speech, which is the subject matter of ‘constitutional consensus,’ from the general freedom of speech pertaining to social, philosophical or religious issues, which would be the subject matter of an ‘overlapping consensus.’ (See Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.159-164, 340-348.)

in content, and supposedly secures, when achieved, a deep legitimacy and stability in the democratic polity.

It is noted by Rawls that an overlapping consensus, when achieved, secures that the overall structure and the institutions of the society would be in accordance with the “political ideals of a genuine liberal democracy” (ideals like freedom, equality, and fairness).⁷⁵ It can be argued that pursuing such a normative overlapping consensus on political and economic matters including social justice can conceptually be compared to substantive notions of democracy and democratic consolidation, which will be discussed in the next chapter.

The existence of an overlapping consensus in a democratic society would imply that the majority of the citizens in that country affirm the basic structure and the institutions of their society as being just and fair. At a practical level, an overlapping consensus would simply imply that the majority in the country, would find the education system, health system, the social insurance system, the tax system, or the level of minimum wage as just and legitimate. Or they find the civil laws as legitimate; they find the civil-military relations as just and legitimate; the definitions of crimes and the relevant punishments as just and legitimate; the environmental policies as just and legitimate, etc. These are only some examples, and anything that one can think as being relevant to the basic structure of a country would all be considered as potential subject matters of overlapping consensus. In this regard, an overlapping consensus can be considered to have an enormous width and depth, as Rawls formulated it.

⁷⁵ Related to the democratic ideal, Rawls says: “Justice as fairness works from the fundamental ideas of society as a fair system of cooperation together with the conception of the person[s] as free and equal. These ideas are taken as central to the democratic ideal.” (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.167.)

Rawls states that forming an overlapping consensus is a matter of a relatively long negotiation and deliberation process among the citizens as to how the basic structure and institutions in their society have to be designed. During the negotiation process, different political groups propose alternative ‘conceptions of justice’ in the public forums by appealing to public reason within the general parameters of liberal democracy. That is to say, they propose consistent, coherent, and reasonable ‘political programs’ to the basic issues of the society, and these programs are deliberated among the citizens. After a reasonable rivalry among these conceptions of justice, a particular conception of justice is preferred by the majority as the best possible option that could create just and legitimate institutions within the society, thus an overlapping consensus around that particular conception of justice emerges at the public level.⁷⁶ Such a consensus formation on the basics is what, according to Rawls, can provide the long-run legitimacy and stability in a country. This type of a consensus is supposedly the only way, according to Rawls, as to how different and irreconcilable (yet reasonable) political groups can live in a fair and peaceful way over generations in a country.⁷⁷

2.5.2.1 Doctrinal Differences, Class Preferences, and the Possibility of an Overlapping Consensus

With regard to the doctrinal differences, Rawls notes that the doctrinal differences need to be moderated while forming a constitutional consensus and that all comprehensive

⁷⁶ Rawls states that ‘justice as fairness’ is the standard example of a “conception of justice,” which would be an option among many other reasonable conceptions of justice within the society (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.164.)

⁷⁷ Rawls writes that ‘justice as fairness’ has a conception of society as a ‘fair system of cooperation among generations.’ (Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, p.5.)

doctrines need to become 'reasonable' through the process of constitutional consensus, if they were not so before the process.⁷⁸

With regard to the issue of economic class and its influence on overlapping consensus, Rawls says different conceptions of justice would rely on different conceptions of person and society and would all reflect somewhat divergent preferences and interests of the different strata within the society. In this manner, how would it be possible that people from different class backgrounds and different comprehensive doctrines would come to agree on a particular conception of justice? To this question, Rawls straightforwardly asserts that unless the class conflicts within a society are deliberated and resolved in a peaceful and satisfactory manner, forming an overlapping consensus would simply be impossible.

After having explained constitutional consensus, overlapping consensus, and the relevant major conceptualizations of Rawls, the next chapter deals with Rawls' conceptions of 'constitutional consensus' and 'overlapping consensus' in more detail and compares these two conceptions with the basic terms and concepts in the democratization literature.

⁷⁸ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.164.

CHAPTER 3

RAWLS' CONSTITUTIONAL CONSENSUS AND OVERLAPPING CONSENSUS IN VIEW OF THE DEMOCRATIZATION LITERATURE ⁷⁹

In this chapter, Rawls' concepts of constitutional consensus and overlapping consensus are compared with the democratization literature. Although Rawls, who writes as a political philosopher, does not make explicit references to the democratization literature in his writings, one can discern a parallel between the democratization literature and Rawls' depiction of the stages for reaching an overlapping consensus.

As mentioned before, to the best of my knowledge, there has not thus far emerged articles or books that have specifically problematized Rawls' writings in terms of their relation to the democratization literature.⁸⁰ And I aim to do that here. In this chapter, Rawls' above mentioned two conceptions are compared and contrasted with the concepts

⁷⁹ I would like to thank Prof. Thomas Pogge for his feedback and encouragement on this chapter.

⁸⁰ However, partial contributions of George Klosko and Neil Carlson need to be acknowledged here: Klosko, George. 1993. "Rawls' Political Philosophy and American Democracy," *American Political Science Review*, 87(2), p.183. Carlson, Neil. 2002. *The Institutional Design of Civil Society: Practical Roots of Constitutional Democracy* (Ph.D. proposal at Duke University), published at http://www.duke.edu/~nec/ps/diss/carlson_proposal_200203.pdf.

Although these authors do not specifically or systematically problematize the relation of Rawls' writings to the democratization literature, they briefly touch upon the issue problematized here within the confines of their own works. Klosko in his study mentions Lipset's definition of a stable democracy and compares it to Rawls' notion of 'stability.' He also makes references to Easton's diffuse support in relation to the role of "value consensus" in Rawls' theory. On the other hand, Carlson in his Ph.D. proposal argues that Rawls has an "institutional" conception of democratic consolidation. Carlson argues that according to Rawls, democratic "institutions" create democratic "norms" among citizenry; Carlson contrasts this institutional view of Rawls' with that of Dahl, who unlike Rawls argues that consensus on democratic norms precede democratic institutions, and that consensus on norms create these institutions. Excluding these two authors, who make only casual references on the relation of Rawls' writings to the democratization literature, Rawls' relation to the democratization literature has actually not been specifically analyzed thus far, which is done in this chapter.

in the democratization literature, and analyzed as to how they converge or diverge from one another.

As a political philosopher within the analytical tradition, Rawls writes on issues of democracy by abstracting from the concrete cases. His views on *modus vivendi* and constitutional consensus, as he also notes, are informed by the experiences of the Western democracies, and in this regard, they rely on a historical (empirical) basis. This basis makes it possible to analyze the *modus vivendi* and constitutional consensus with reference to the democratization literature. However, the overlapping consensus in terms of its relation to empirical cases is somewhat a different story since it does not necessarily rely on historical cases but rather points to the ideal democracy and is thus more normative than descriptive.⁸¹

Regarding the possible connections between democratization literature and Rawls' conceptions of constitutional consensus and overlapping consensus, three arguments are put forth in this chapter. The first argument is that Rawls' conception of the initial stage of constitutional consensus, which is practically a *modus vivendi*, corresponds to 'democratic transition.' The second argument is that Rawls' conception of (finalized) constitutional consensus corresponds to 'minimalist' and 'negative' democratic consolidation. The third argument is that Rawls' conception of overlapping consensus corresponds to 'maximalist' and 'positive' democratic consolidation. The arguments are summarized below:

⁸¹ Overlapping consensus, as Rawls formulated it, can be considered as an 'ideal concept' in the Weberian sense "supposing a full overlapping consensus is never achieved but at best only approximated" (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.165).

RAWLS' CONCEPTIONS	THEIR IMPLICATIONS	WHAT THEY CORRESPOND TO IN THE DEMOCRATIZATION LITERATURE
Initial Stage of Constitutional Consensus →	Democratic procedures and institutions incorporated into the political system as a 'modus vivendi' =	<i>Democratic Transition</i>
Finalized Constitutional Consensus →	Popular consensus on democratic procedures and institutions, which is secured by civic political culture =	<i>Minimalist / Negative Democratic Consolidation</i>
Overlapping Consensus →	Popular consensus on a political conception of justice, and thus prevalence of deep political legitimacy and long-run stability within the polity =	<i>Maximalist / Positive Democratic Consolidation</i>

Table 1: 'Constitutional Consensus' and 'Overlapping Consensus' Compared with the Democratization Literature

In order to be able to substantiate these arguments, first some general information on the basic concepts in the democratization literature is given below.

3.1 Basic Concepts in the Democratization Literature

There is an enormous and continuously growing literature on democratization and democratic consolidation, and it is technically not possible to cover all of the theories or theorists here. Therefore, a general account of the literature is provided with and the most relevant concepts and approaches discussed.

The first term to define is democratization. Potter defines democratization as “political changes moving in a democratic direction.”⁸² It can be argued that democratization in general entails a “transition to relatively more democratic regime from undemocratic one, and a process of consolidation on the way to a consolidated democracy.”⁸³

The initiation of democratic institutions in a country is called ‘democratic transition’ in the literature. As to when a transition is complete, Linz and Stepan argue:

A democratic transition is complete when sufficient agreement has been reached about political procedures to produce an elected government, when a government comes to power that is the direct result of a free and popular vote, when this government *de facto* has the authority to generate new policies and when the executive, legislative and judicial power generated by the new democracy does not have to share power with other bodies *de jure*. (Linz and Stepan, 1996: 3)

On the other hand, O’Donnell has a conception of democratic transition that entails two stages:

The first is the transition from the previous authoritarian regime to the installation of a democratic government. The second transition is from this government to the consolidation of democracy or, in other words, to the effective functioning of a *democratic regime*... The second transition will not be any less arduous nor any less lengthy; the paths that lead from a democratic government to a democratic regime are uncertain and complex, and the possibilities of authoritarian regression are numerous.⁸⁴

⁸² Potter, David. 1997. “Explaining Democratization” in David Potter, David Goldblatt, Margaret Kiloh, and Paul Lewis (Eds). *Democratization*. Cambridge: Polity Press and Open University, p.3.

⁸³ Usul, Ali R. 2003. “International Dimension of Democratization: The Influence of the European Union on the Consolidation of Democracy in Turkey, 1987-2002.” Unpublished Ph.D. thesis, Ankara: Bilkent University, p.18.

⁸⁴ O’Donnell, Guillermo. 1992. “Transitions, Continuities, Paradoxes,” In Scott Mainwaring, Guillermo O’Donnell, and J. Samuel Valenzuela (Eds). *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspective*. Notre Dame: University of Notre Dame Press, p.18.

Another issue is how democratic regimes come into being in a country. On this issue, there exist three main approaches in the literature: modernization approach, structural approach, and transition approach.

3.1.1 Theories on Democratization

3.1.1.1 Modernization approach

This approach is originated in the study of Seymour Martin Lipset (1959). According to Lipset, a certain level of industrialization and modernization leads to democratization. He argues that “the more well-to-do a nation, the greater the chances that it will sustain democracy.”⁸⁵ This approach is affirmed by many follow-up studies; however, it is generally criticized with reference to two examples: Germany and India. It is argued that Germany enjoyed a high level of modernization, yet became a fascist regime under Hitler; India on the other hand has enjoyed democracy although it is not modernized.⁸⁶ In this regard, it should be noted that according to Lipset, socio-economic correlations are only associational and do not necessarily indicate *cause* but they point to *probabilities*.⁸⁷ Let us note that modernization approach is used in this study in Chapter 8 to assess Turkey’s level of socio-economic modernization and its chances of democratic consolidation in the coming years. In that chapter, a more comprehensive and detailed information on modernization theory will be provided.

⁸⁵ Lipset, Seymour Martin. 1960. *Political Man: The Social Bases of Politics*. Gardencity, NY: Doubleday, p.31.

⁸⁶ These two cases and possible explanations according to Lipset are mentioned in Chapter 8.

⁸⁷ Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), pp.69-105.

3.1.1.2 Structural Approach

This approach is rooted in the work of Barrington Moore (1966) and places explanatory primacy on the shifts in the structures of class and power within various societies. The structural approach analyzes long-term processes of historical change. Moore, in his study *Social Origins of Dictatorship and Democracy: Lord and Peasant in the Making of Modern World* (1966), analyzes the relations between state, peasantry, landed upper class, and urban bourgeoisie in England, the US, Japan, Germany, Russia, China, and India. He concludes that different class structures and social changes in these societies led to different political outcomes; democracy in some of them and fascism in others.

Moore argues that there are five general conditions for democratic development:

1. The development of a balance to avoid too strong a state or too independent a landed aristocracy,
2. A turn towards an appropriate form of commercial agriculture
3. The weakening of the landed aristocracy,
4. The prevention of an aristocratic- bourgeoisie coalition against the peasants and workers,
5. 'A revolutionary break from the past' led by bourgeoisie.⁸⁸

On the other hand, the conditions, according to Moore, of a communist revolution are:

1. Bourgeoisie and working class are weak,
2. State is powerful,
3. The relationship between the peasants and the landlords is weak,

⁸⁸ Moore, Barrington. 1966. *Social Origins of Dictatorship and Democracy*, Boston: Beacon Press, pp.430-31.

4. The landlords do not commercialize agriculture,
5. Peasants are in unity and in touch with groups which have organizational capabilities.⁸⁹

3.1.1.3 Transition Approach

This approach is originated in the works of Dankwart Rustow (1970) and is developed by others particularly those with a special interest in Latin America. This approach emphasizes the role of elite choices, bargaining, and negotiation as central to the political processes of transition to democracy.

It can be said that while the structural approach emphasizes economic factors and social change from a macro perspective, the transition approach emphasizes from a micro perspective the role of human agency in democratic transitions.

Rustow, criticizing Lipset, argued that Lipset had merely a ‘functional curiosity’ as to what factors can best preserve or enhance the health and stability of a democracy. Rustow himself, on the other hand, had an interest in the developing countries and tried to understand “how a democracy comes into being in the first place.” Rustow analyzed Turkey and Sweden in order to understand the historical course of democracy in these countries and concluded that these countries went through four main phases:

1. National unity,
2. Inclusive political struggle ,
3. Decision phase (for making a transition to democracy),
4. Habituation phase.⁹⁰

⁸⁹Potter, David et al. 1997. *Democratization*. Walton Hall: The Open University Press, p.20.

As to the possible modes of making a democratic transition in a country, there exist two major modes in the literature: *raptura* and *pactada*. While *raptura* implies “a sudden break with existing institutional arrangements,” *pactada* implies “a transition led and controlled by the power holders of the previous authoritarian regime.”⁹¹ In order for a transition to be successful, Huntington argues, based on the historical cases, that transformation only occurred:

if reformers were stronger than standpatters, if the government was stronger than the opposition, and if the moderates were stronger than the extremists [in both camps].⁹²

It is noted by various authors that the success of a transition to democracy in a country depends on many internal as well as external factors, including the international environment and relations.⁹³

3.1.2 Democratic Consolidation

Pridham argues that democratic consolidation is still a ‘nebulous’ term as a theoretical construct and means different things to different people.⁹⁴ There are different and competing conceptions of democratic consolidation within the literature. Each conception relies on a different understanding of what ‘democracy’ is and what comprises the

⁹⁰ Rustow, Dankwart. 1970. “Transitions to Democracy: Toward a Dynamic Model,” *Comparative Politics* 2(3): 337-363.

⁹¹ It is noted by Özbudun that pacts are generally seen when a rough equality of power exists between the government and opposition. (Özbudun, Ergun. 2000. *Contemporary Turkish Politics: Challenges to Democratic Consolidation*. Boulder: Lynne Rienner Publishers, p.14.)

⁹² Huntington, Samuel. 1991. *The Third Wave. Democratization in the Late Twentieth Century*. Norman: University of Oklahoma Press, pp.124-125

⁹³ See Pridham, Geoffrey. 1995. “The International Context of Democratic Consolidation: Southern Europe in Comparative Perspective,” In Richard Gunther, P. Nikiforos Diamandouros, and Hans-Jürgen Puhle, editors, *The Politics of Democratic Consolidation, Southern Europe in Comparative Perspective*. Baltimore and London: The Johns Hopkins University Press, pp.166-203.

⁹⁴ Ibid., p.167.

minimum requisites of democratic consolidation. In this regard, the minimalist and maximalist conceptions, as well as negative and positive conceptions, compete with each other to define democratic consolidation. Before embarking on these diverse conceptions and their differences, how different authors define democratic consolidation is mentioned below.

Adam Przeworski's definition is the best known. According to him, a democracy is consolidated when "democracy becomes the only game in the town." On the other hand, Larry Diamond defines democratic consolidation as "achieving broad and deep legitimation, such that all significant political actors at both elite and mass levels believe that the democratic regime is the most right and appropriate for their society, better than any realistic alternative they imagine."⁹⁵

3.1.2.1 Minimalist versus Maximalist Definitions of Democratic Consolidation

The difference between minimalist and maximalist conceptions of democratic consolidation is that "a [minimalist] procedural understanding of democracy... constitutes a basic institutional understanding of democracy, which includes the right to suffrage, majority rule, or political freedom in general."⁹⁶ A maximalist understanding of democracy on the other hand, means the flourishing of a broad democratic culture among the citizens, and according to some other authors, it means direct citizenship participation into political decisions especially on issues concerning social justice and social rights. Gamba Ganbat notes that a substantive (maximalist) understanding goes beyond a

⁹⁵ Diamond, Larry. 1996. "Is the Third Wave Over?," *Journal of Democracy* 7(3), p.33.

⁹⁶ Ganbat, Gamba. 2004. "The Mass Public and Democratic Politics in Mongolia." Working Paper Series No:29, Asian Barometer Office, National Taiwan University and Academia Sinica, p.8.

procedural definition and deals with social justice, socio-economic equity, civil liberties and quality of life.⁹⁷

3.1.2.1.1 Minimalist Democratic Consolidation

Minimalist democratic consolidation refers to the consolidation of procedural or formal democracy, and is best characterized and exemplified by Schumpeter's understanding of democracy, which highly influenced Lipset, Linz, Stepan, and Diamond.⁹⁸ Schumpeter defined democratic consolidation as "institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."⁹⁹

Another minimalist theorist, Schmitter defines the minimalist conception of a consolidated democratic regime as "the process of transforming the accidental arrangements, prudential norms, and contingent solutions that have emerged during the transition into relations of cooperation that are reliably known, regularly practiced, and voluntarily accepted by those persons or collectivities that participate in democratic governance."¹⁰⁰

Dahl, a paradigmatic author for minimalists, defined polyarchies (democracies) in relation to whether or not they have civil and political rights as well as fair competitive and inclusive elections. Dahl stated that polyarchies display the following characteristics:

⁹⁷ Ibid. pp.8-9.

⁹⁸ Schumpeter's understanding of democracy is referred to as "Schumpeterian democracy."

⁹⁹ Schumpeter, Joseph. 1970. *Capitalism, Socialism, and Democracy*. London: George Allen and Unwin, p.269.

¹⁰⁰ Compare this with Rawls's constitutional consensus, and also see Schmitter, Philippe C. 2001. "Parties are not What They Once Were," In Larry Diamond and Richard Gunther (Eds). *Political Parties and Democracy*. Baltimore and London: The Johns Hopkins University Press, pp.67-68.

1. Elected officials
2. Free and fair election
3. Inclusive suffrage
4. Right to run for office
5. Freedom of expression
6. Alternative information
7. Associational autonomy¹⁰¹

According to Dahl, these are the “procedural minimal” conditions of democracy which have had much influence on the consolidation literature. Some authors expand Dahl’s minimum criteria by adding rule of law, civil rule and control over military, minority rights, and accountability.¹⁰²

Linz and Stepan, although being closer to the procedural approaches in general, try to find, as noted by Özbudun (2000:4), a mid-way between minimalist and maximalist approaches and explain democratic consolidation by a tri-partite criteria: behavioral, attitudinal, and constitutional consolidation. Linz and Stepan define these three dimensions of consolidation as follows:

Behaviorally, a democratic regime in a territory is consolidated when no significant national, social, economic, political, or institutional actors spend significant resources attempting to achieve their objectives by creating a non-democratic regime or by seceding from the state.

Attitudinally, a democratic regime is consolidated when a strong majority of public opinion, even in the midst of major economic problems and deep

¹⁰¹ Dahl, Robert. 1989. *Democracy and Its Critics*. New Haven: Yale University Press, p.221; Dahl, Robert A. 1971. *Polyarchy: Participation and Opposition*. New Haven: Yale University Press, pp.3-20.

¹⁰² Diamond adds and emphasizes the importance of minority rights as a requisite of procedural consolidation, while Burrell and Calvert put forth the importance of civilian control over military as a requisite for democratic consolidation. (Diamond, Larry. 1996. “Is the Third Wave Over?,” *Journal of Democracy* 7(3), p.23; Burrell, Peter, and Calvert, Peter. 1999. “The Resilience of Democracy: An Introduction,” *Democratization* 6(1), p.3.)

dissatisfaction with incumbents, holds the belief that democratic procedures and institutions are the most appropriate way to govern collective life, and when support for anti-system alternatives is quite small or more-or-less isolated from pro-democratic forces.

Constitutionally, a democratic regime is consolidated when governmental and nongovernmental forces alike become subject to, and habituated to, the resolution of conflict within the bounds of the specific laws, procedures, and institutions sanctioned by the new democratic process.¹⁰³

Following Linz and Stepan, another author, Merkel, argues that there are four levels of consolidation: constitutional consolidation, representative consolidation, behavioral consolidation, and the consolidation of civic culture. Regarding constitutional consolidation which parallels Rawls' constitutional consensus, Merkel argues that "existence of a constitution would reduce the contingency in the political life. Mutual distrust within the political elites would be prevented by it. The constitutional set of meta-rules defines the norms and procedures of conflict mediation."¹⁰⁴

At another level of analysis, Easton makes a distinction between what he calls specific support and diffuse support. Whereas specific support is the support of the public for certain government policies and outcome, diffuse support is the 'long-term support' for the entire political system without specific performance or output of the system. It is support that underlines the regime as a whole and the political community."¹⁰⁵

What now follows is an examination of maximalist conceptions argue and how they view democratic consolidation.

¹⁰³ Linz, Juan J. and Alfred Stepan. 1996. "Toward Consolidated Democracies," *Journal of Democracy* 7(2), p.16.

¹⁰⁴ Compare this with Rawls' notion of constitutional consensus, which he argues creates institutionalization of conflict mediation in a civil and democratic way.

¹⁰⁵ Easton, David. 1975. "A Reassessment of the Concept of Political Support," *British Journal of Political Sciences*, 5(4), p.445.

3.1.2.1.2 Maximalist Democratic Consolidation

There are two alternative notions of maximalist democratic consolidation. According to the first and more well known view, democratic consolidation involves the “inculcation of democratic culture among the citizens through a long socialization process.”¹⁰⁶ The second one, which actually suits the purpose of this chapter better, depicts maximalist democratic consolidation in relation to attaining democratic legitimacy, especially on issues of social justice and social rights. Since Rawls as a theorist refers to the need for social justice and social rights, it is argued here that his notion of overlapping consensus approaches the maximalist and substantive conceptions of democratic consolidation.

Regarding what substantive democracy entails, Mary Kaldor and Ivan Vejvoda propose the following:

we consider substantive democracy as a process that has to be continuously reproduced, a way of regulating power relations in such a way to maximize the opportunities for individuals to influence the conditions in which they live, to participate in and influence debates about the key decisions which effect society.¹⁰⁷

Another author, William I. Miller notes that maximalist notions of democracy emphasize the need for economic and social rights to secure everyone’s ability to exercise civil/political rights and thereby secure the quality of democracy. As a general notion, it can be argued that proponents of radical democracy, deliberative democracy, economic democracy, democratic socialism, and property-owning democracy are closer to

¹⁰⁶ Özbudun, Ergun. 2000. *Contemporary Turkish Politics: Challenges to Democratic Consolidation*. Boulder: Lynne Rienner Publishers, p.2.

¹⁰⁷ Kaldor, Mary and Ivan Vejvoda. 1997. “Democratization in Central and Eastern European Countries,” *International Affairs* 73(1), p.62.

maximalist notions of democracy and democratic consolidation.¹⁰⁸ It can also be argued that T.H. Marshall's conception of democracy and democratic citizenship also approaches the 'substantive' notions of democracy and citizenship rather than the formal and procedural definition of these concepts.

3.1.2.2 Negative versus Positive Consolidation

There are alternative definitions of negative and positive consolidation in the writings of scholars working on this issue. I will focus on the views of Linz, Pridham, and Schedler.

Linz explains negative consolidation in terms of doing away with disloyalties. He writes:

democratic consolidation in term of avoiding democratic breakdown involves doing away all disloyalties: an explicit rejection of democratic regime and/or its instruments such as political parties, a willingness of political elites to resort to violence, force, fraud, or other unacceptable means to get the power; and "knocking at the barracks door."¹⁰⁹

On the other hand, democratic consolidation in the positive sense is related to the question of "how and/or through which institutions consolidation can be achieved."¹¹⁰

Possible ways for this aim, as noted, are:

drafting, revising, and ratifying a new democratic constitution, ensuring the rule of law, establishing democratic representative, legislative and executive institutions; eliminating all human rights violations, and all kinds of discrimination,

¹⁰⁸ See Carter, April, and Stokes Geoffrey (Eds). 1998. *Liberal Democracy and Its Critics*. Oxford: Polity Press.

¹⁰⁹ Linz, Juan. 1978. *The Breakdown of Democratic Regimes: Crisis, Breakdown, and Re-equilibration*. Baltimore: Johns Hopkins University Press, p.30. Compare this with the modus vivendi of Rawls and how it could turn into a constitutional consensus where the above disloyalties and anti-democratic attitudes are removed and the democratic regime is consolidated.

¹¹⁰ Usul, Ali R. 2003. "International Dimension of Democratization: The Influence of the European Union on the Consolidation of Democracy in Turkey, 1987-2002." Unpublished Ph.D. thesis, Ankara: Bilkent University, p.22.

abolishing tutelary power, and 'reserved domains', formation of an autonomous and robust civil society; and ensuring a reasonably fair electoral system.¹¹¹

According to Pridham, negative and positive democratic consolidation are as follows:

Negative consolidation includes the solution of any problems remaining from the transition process and, in general, the containment or reduction, if not removal, of any serious challenges to democratization. The latter usually take the forms of groups or individuals characterized as anti-system. Negative consolidation is achieved when their presence or impact becomes numerically or politically insignificant, for example they either become neutralized and opt out of the political game or they may become converted to democratic politics.

Positive consolidation places more emphasis on attitudinal patterns, and it refers especially to wider or deeper levels of the overall process. It includes the inculcation of democratic values at both elite and mass levels, and, therefore, it involves some remaking of the political culture in a direction that is system-supportive for a new democracy. Positive consolidation refers to longer-term change, while negative consolidation may be achieved in a shorter time span.¹¹²

Andreas Schedler offers an alternative definition of negative and positive consolidation, which he declares to be different than Pridham's conceptualization. Schedler classifies regimes into four categories: authoritarianism, semi-democracy, liberal democracy, and advanced democracy. Schedler defines negative and positive consolidation as such:

We may call 'negative' those two concepts of democratic consolidation that are concerned with democratic stability and try to avoid regressions to either non-democratic or semi-democratic regimes. And we may call 'positive' those two notions of democratic consolidation that are concerned with democratic advances and try to attain progress towards either minimal or high-quality democracy.¹¹³

¹¹¹ Ibid., p.22.

¹¹² Pridham, Geoffrey. 1995. "The International Context of Democratic Consolidation: Southern Europe in Comparative Perspective," In *The Politics of Democratic Consolidation, Southern Europe in Comparative Perspective*. Baltimore and London: The Johns Hopkins University Press, pp.168-169.

¹¹³ Schedler, Andreas. 1997. "Concepts of Democratic Consolidation," Paper Prepared for Delivery at the Meeting of the Latin American Studies Association (LASA), Continental Plaza Hotel, Guadalajara, Mexico, 17-19 April 1997, pp.10-11.

After having explained negative and positive consolidation, the influence of political culture on democratic consolidation is discussed in the next section.

3.1.2.3 The Influence of Political Culture on Democratic Consolidation

Almond and Verba, the two key figures of political culture studies, point out that civil society and civic culture is quite crucial for democracy and democratic consolidation. According to Almond and Verba, the civic characters of political culture involve interpersonal trust, tolerance towards differences, and lack of support for revolutionary change.¹¹⁴ These elements of political culture are considered as neo-Tocquevillian values, and it is widely assumed in the democratization literature that these values directly influenced theorists such as Putnam, Schmitter, and Diamond.¹¹⁵ In fact, they influenced Diamond to such an extent that regarding the importance of political culture on democratic consolidation, he argues that “democratic consolidation can... only be fully understood as encompassing *shift in political culture*.”¹¹⁶

Regarding the relation between institutionalization and civic values, Diamond notes:

Strengthening the formal representative, and governmental structures of democracy so that they become more coherent, complex, autonomous, and adaptable and thus more capable, effective, valued, and binding... institutionalization enhances trust and cooperation among political actors... Thus it helps to draw reliable boundaries around the uncertainty of politics and to

¹¹⁴ See Almond, Gabriel and Verba, Sidney. 1963. *The Civic Culture: Political Attitudes and Democracy in Five Nations*. Princeton: Princeton University Press; and Inglehart, Ronald. 1988. “The Renaissance of Political Culture,” *American Political Science Review* 82(4): 1203-1230.

¹¹⁵ Usul, Ali R. 2003. “International Dimension of Democratization: The Influence of the European Union on the Consolidation of Democracy in Turkey, 1987-2002.” Unpublished Ph.D. thesis, Ankara: Bilkent University, p.42.

¹¹⁶ Diamond, Larry. 1999. *Developing Democracy: Toward Consolidation*. Baltimore: Johns Hopkins Press, p.65.

facilitate trust, tolerance, and moderation, civility, and loyalty to the democratic system.¹¹⁷

In the next section, Rawls' constitutional consensus will be analyzed in view of the above mentioned concepts in the democratization literature.

3.2 Constitutional Consensus in View of the Democratization Literature

Before reflecting upon constitutional consensus in further detail in light of the democratization literature, Rawls' relation to the three theories of democratization need to be discussed here. Concerning Rawls' relation to these theories, it can be argued that in terms of his depiction of the initial stage of constitutional consensus (*modus vivendi*), Rawls is close to the transitional approach, since a *modus vivendi* is based on a pact among elites and is a result of deliberations. On the other hand, it can be argued that Rawls' notion of finalized constitutional consensus can be related also to the modernization approach since a finalized constitutional consensus seems to pre-require a relatively developed urban setting (This issue is discussed in greater detail in Chapter 8 under the section titled "Rawls and Modernization.")

Rawls' reference to elite pacts in the context of *modus vivendi* might explain democratic transitions, but it can be argued that human choices or their interactions cannot on its own explain everything about how democracies endure. The literature, in fact, suggests that income level and higher development makes it more likely for established democracies to endure. Thus, it can be argued that veil of ignorance and

¹¹⁷ Ibid., p.75. Compare Diamond's argument with Rawls's institutionalist notion of democratic consolidation that institutions come first and they create the civil culture. Rawls relies on the supposition that democratic institutions created initially under *modus vivendi* socializes people into democratic norms and creates a civic culture in time.

rational choices will more likely be applicable and relevant where structural factors, like income and literacy, would support the flourishing of 'rational citizens' in the first place. (That's also directly connected to Rawls' emphasis on property-owning democracy and social justice, which he sees as central to democracy.)

It can be argued that democratic survival might require both a sufficient level of rational human choice, as well as a reasonable level of human development (HDI, income, urbanism, etc.) Development might be more conducive to having more space for pro-democratic choices in the public forums, individual and collective, that might enhance democratic survival in the long run, which is supported by empirical evidence in the modernization literature.¹¹⁸

In order to be able to further elaborate on the relation between constitutional consensus and the democratization literature, first it is explained how Rawls devised the notion of constitutional consensus. Rawls states that he borrowed the term 'constitutional consensus' from Kurt Baier.¹¹⁹ Rawls made out of it a more specific and elaborate term. In Rawls' usage, a 'constitutional consensus,' when achieved, guarantees the basic political rights and liberties. Reflecting upon the content of these rights, Rawls writes:

Basic political rights and liberties are the right to vote and freedom of political speech and association, and whatever else is required for the electoral and legislative procedures of democracy—there is disagreement among those holding liberal principles as to the more exact content and boundaries of these rights and liberties, as well as on what further rights and liberties are to be counted as basic and so merit legal if not constitutional protection. The constitutional consensus is not deep and it is also not wide: it is narrow in scope, not including the basic structure but only the political procedures of democratic government.¹²⁰

¹¹⁸ See Chapter 8, which is related to this issue.

¹¹⁹ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.158.

¹²⁰ *Ibid.*, p.159.

Defining the constitutional consensus as a consensus on procedural matters of democracy, Rawls points out that a constitutional consensus needs to meet three basic requirements, which were mentioned in the previous chapter.

As to how a constitutional consensus comes about, Rawls, relying on the historical experiences of Western democracies, argues that a constitution satisfying the basic political rights and liberties could possibly be accepted first as a *modus vivendi*, and then affirmed and internalized by the people as citizens' democratic practices mature within time. That is to say, the democratic institutions according to Rawls would first be introduced into the system and then institutionalization would hopefully generate certain democratic attitudes and virtues among the citizens. The following quotation on constitutional consensus reflects Rawls' approach to the issue of how a democratic regime comes into being:

Suppose that at a certain time, because of various historical events and contingencies, some liberal principles of justice are accepted as a mere *modus vivendi*, and are incorporated into existing political institutions. This acceptance has come about, let us say, in much the same way as the acceptance of the principle of toleration came about as a *modus vivendi* following the Reformation: at first reluctantly, but nevertheless as providing the only workable alternative to endless and destructive civil strife. Our question then is this: how might it happen that over time the initial acquiescence in a constitution satisfying these liberal principles of justice develops into a constitutional consensus in which those principles themselves are affirmed? ¹²¹

This quotation, when read along with some other references in *Political Liberalism*, demonstrates that Rawls sees the source of constitutional rule in the 'endless and destructive civil strife' and as a possible way that the citizens find their way out of it. He suggests that the groups in civil strife somehow agree on a constitution (first as a *modus*

¹²¹ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.159.

vivendi) and incorporate the democratic institutions into the system in order to moderate the harsh political rivalry among themselves. This reminds one of Rustow's famous sayings which is, "a people who are not in conflict about some rather fundamental matters would have little need to devise democracy's elaborate rules for conflict resolution."¹²²

Rawls points out that a constitution guaranteeing basic political rights and liberties is made by a constitutional convention. On this issue, he notes:

Delegates to such a convention (still regarded as representatives of citizens as free and equal persons but now assigned a different task) are to adopt, from among the just constitutions that are both just and workable the one that seems most likely to lead to just and effective legislation. (Which constitutions and legislations are just is settled by the principles of justice already agreed to in the original position).¹²³

Thus, it follows that a liberal constitution, according to Rawls, would be created out of a social need to end the strife by the political elites (delegates), and accepted by them through some sort of a pact-making, which he says could possibly be accepted first as a mere "modus vivendi."¹²⁴

¹²² Rustow, Dankwart. 1970. "Transitions to Democracy: Toward a Dynamic Model," *Comparative Politics* 2(2), p.362.

¹²³ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.336.

Rawls notes that the delegates incorporate only the first principle of justice into the constitution and not the second principle, which Rawls justifies as such: "Although delegates have a notion of just and effective legislation, the second principle of justice, which is part of the content of this notion, is not incorporated into the constitution itself. Indeed, the history of successful constitutions suggests that principles to regulate economic and social inequalities, and other distributive principles, are generally not suitable as constitutional restrictions. Rather, just legislation seems to be best achieved by assuring fairness in representation and by other constitutional devices." (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.337.)

¹²⁴ Rawls notes that the typical use of the phrase "modus vivendi" is to characterize a treaty between two states whose national aims and interests put them at odds. In negotiating a treaty, each state would be wise and prudent to make sure that the agreement proposed represents an equilibrium point; that is, the terms and conditions of the treaty are drawn up in such a way that it is publicly knowledge that it is not advantageous for either state to violate it.

Having clarified the status of the initial stage of constitutional consensus (*modus vivendi*) as such, it can be argued that this initial stage implies a ‘democratic transition’ (through pact-making). As Rawls acknowledges, this transitional stage is quite fragile and its success and consolidation is contingent upon long-term civil and political development. The mere fact that democratic institutions are incorporated into the constitutional structure of a country would not guarantee the longevity and consolidation of these institutions.

However, Rawls seems to think that the *modus vivendi* stage is critical as the initial stage of a long chain of events that are supposed to lead to an overlapping consensus. It is a fact that many European states started first under conditions that can be compared to *modus vivendi*, but now they have a constitutional consensus on certain political rights and liberties and basic design of government.¹²⁵

It is crucial to restate that acquiescence in the constitution during the *modus vivendi* stage is not a principled and unconditional acceptance of the democratic rules of the game, but a “circumstantial equilibrium in military political and economic power among feuding camps”¹²⁶ What Rawls calls *modus vivendi* can be considered as a pact made by warring groups which are almost equal in power and therefore cannot dominate over the rival.¹²⁷ Rawls’ *modus vivendi* can also be compared to O’Donnell’s notion of “two transitions.” It can be argued that Rawls’ initial stage of constitutional consensus (i.e. *modus vivendi*) corresponds to what O’Donnell calls the ‘first transition.’ It can also

¹²⁵ On this issue, see David A. Reidy. 1999. *Re-reading Rawls*, Knoxville: University of Tennessee Publication.

¹²⁶ See references to *modus vivendi* in Yonah, Yossi. 2000. “Israel’s Political Stability: A Matter of Principle,” *Israel Studies* 5(2), p.132.

¹²⁷ It is noted by Özbudun that pacts are generally seen “when a rough equality of power exists between the government and opposition.” (Özbudun, Ergun. 2000. *Contemporary Turkish Politics: Challenges to Democratic Consolidation*. Boulder: Lynne Rienner Publishers, p.18.)

be argued that the finalized constitutional consensus corresponds to what O'Donnell calls the 'second transition.' Because it is through *modus vivendi* that democratic *government* is initiated, it is through constitutional consensus that the democratic *regime* is consolidated.

As was stated before, Rawls' conception of 'constitutional consensus' corresponds to minimalist and negative democratic consolidation. In order to substantiate this argument, constitutional consensus will first be compared with minimalist and then negative conceptions of democratic consolidation. The following section is devoted to a comparison of Rawls's constitutional consensus with the minimalist conceptions put forth by authors such as Dahl, Schumpeter, Schmitter, O'Donnell, and some other authors who are more or less close to the minimalist notions of democratic consolidation.

3.2.1 Constitutional Consensus and Minimalist Democratic Consolidation

When comparing Rawls and his conception of 'constitutional consensus' with minimalists, it would be appropriate to compare first with Robert Dahl. Dahl argues that a polyarchy would be defined in relation to having civil and political rights plus fair competitive and inclusive elections. Thus, Rawls' constitutional consensus is close to Dahl's definition if subtracting civil rights from the equation, the civil rights that are not directly related to political rights, and if adding the cultivation of civic culture to the equation, which Rawls deems necessary for a functioning democracy.¹²⁸ In this regard, it can be said that Rawls' constitutional consensus would be very close to Merkel's

¹²⁸ This dimension, namely civic culture and its relation to democratic institutionalization, is expressed by Diamond as such: "Institutionalization enhances trust and cooperation among political actors... Thus it helps to draw reliable boundaries around the uncertainty of politics and to facilitate trust, tolerance, and moderation, civility, and loyalty to the democratic system." (Diamond, Larry. 1999. *Developing Democracy: Toward Consolidation*. Baltimore: Johns Hopkins Press, p.75.)

definition of democratic consolidation, which is comprised of four levels: consolidation of civic culture, and constitutional, representative, and behavioral consolidation.

Among minimalist approaches, Rawls' constitutional consensus approximates Schmitter's definition of democratic consolidation. According to Schmitter, democratic consolidation is:

the process of transforming the accidental arrangements, prudential norms, and contingent solutions that have emerged during the transition into relations of cooperation that are reliably known, regularly practiced, and voluntarily accepted by those persons or collectivities that participate in democratic governance.¹²⁹

This definition of Schmitter's is very close to what Rawls intends to convey by his conception of constitutional consensus.

Diamond's comments on the transitional approach actually best summarizes and approaches the concept of constitutional consensus. Diamond argues that the transitional approaches consider that:

Democratic consolidation occurs once there emerges a "consensually unified elite" that shares a common commitment to the rules of the democratic game, a broader set of norms about the rules of political conduct, and a dense structure of interaction that fosters personal familiarity and trust.¹³⁰

With reference to Linz and Stepan's tripartite criteria of democratic consolidation, namely behavioral, attitudinal, and constitutional consolidation, it can be argued that Rawls' constitutional consensus implies elements of all three criteria. When a constitutional consensus is realized, the citizens are habituated to the resolution of conflict "within the bounds of the specific laws, procedures, and institutions sanctioned

¹²⁹ Schmitter, Philippe C. 1988. "The Consolidation of Political Democracy in Southern Europe," Stanford and Florence: Stanford University and European University Institute (unpublished manuscript), p.12.

¹³⁰ Diamond, Larry. 1999. *Developing Democracy: Toward Consolidation*. Baltimore: Johns Hopkins Press, p.218.

by the new democratic process” (constitutional consolidation). The citizens attitudinally accept democracy and consider it the most appropriate regime for their society (attitudinal consolidation), and behaviorally they do not engage in violence, or anti-system activities (behavioral consolidation). Thus, constitutional consensus in Rawlsian terms implies all three of behavioral, attitudinal, and constitutional consolidation in Linz and Stepan’s terms.

In relation to a comparison between Rawls’ concepts and “extended procedural minimum” of democratic consolidation, it needs to be emphasized that Rawls does not mention minority rights, human rights, or accountability as the requisites of a constitutional consensus, and regards these issues as ‘substantive,’ and therefore, the subject matter of ‘overlapping consensus.’ However, rule of law and civil control over the military can be considered within the limits of constitutional consensus since these two are directly related to the “electoral and legislative procedures of democracy,” which Rawls says is necessary for constitutional consensus.¹³¹

The regime support that is depicted as part of a constitutional consensus by Rawls parallels what Easton calls “diffuse support.” Whereas the continuation of a democratic regime (as *modus vivendi*) would be dependent upon “specific support,” the continuation of a constitutional consensus would be independent of government performance, and would rather be a function of ‘diffuse support.’

Comparing Rawls with Lipset, it can be argued that what Rawls puts forth as important pillars of democratic consensus, namely mutual respect, toleration, and

¹³¹Diamond adds and emphasizes the importance of minority rights as a requisite of procedural consolidation, while Burrell and Calvert put forth the importance of civilian control over military as a requisite for democratic consolidation. (Burnell, Peter, and Calvert, Peter. 1999. “The Resilience of Democracy: An Introduction,” *Democratization* 6(1), p.3.)

moderation are also emphasized by Lipset as the legitimacy dimension of democracy. Lipset argues “a stable democracy requires relatively moderate tension among the contending political forces. And political moderation is facilitated by the capacity of a system to resolve key dividing issues before new ones arise.”¹³²

In comparing Rawls and Rustow, it can be said that Rustow’s four stages that he noted Sweden and Turkey went through in establishing democracies are parallel to *modus vivendi* and constitutional consensus. According to Rustow, these two countries went through these stages:

1. National unity,
2. Inclusive political struggle,
3. Decision phase (for making a transition to democracy),
4. Habituation phase.

It can be argued that phase 2 and 3 (inconclusive political struggle and decision phase) can be compared to the struggles of *modus vivendi* and phase 4 (habituation phase) can be compared to the constitutional consensus (habituation to the democratic constitution).

Overall, it can be argued that constitutional consensus corresponds to ‘minimalist’ democratic consolidation, and that ‘constitutional consensus’ is quite parallel with the way Dahl, Schumpeter, O’Donnell, or Schmitter define democratic consolidation.

¹³² Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.97.

3.2.2 Constitutional Consensus and Negative Democratic Consolidation

Rawls' constitutional consensus can primarily be read as a theory on 'negative' democratic consolidation since constitutional consensus implies the relative democratization of anti-system groups and the disappearance of systemic challenges. A constitutional consensus, unlike overlapping consensus, is limited and does not go as far as enhancing all the democratic values or norms but only the political norms pertaining to democratic government.

In a country where constitutional consensus exists, there would just be respect for the political rights and liberties pertaining to democratic procedures, and people would be civil and tolerant, however not democratic in terms of the values that go beyond basic political procedures. What this refers to is that in a country where constitutional consensus exists, the regime would not yet incorporate democratic values such as freedom of conscience, freedom of speech,¹³³ or equality of opportunity, which require an overlapping consensus to be built. Put differently, people would not be socialized into these values during a constitutional consensus. However, as an overlapping consensus is being built, people would be socialized into these democratic values as a result of a long socialization and deliberation process.

An overlapping consensus implies the socialization of people into a broad and wide range of (liberal) democratic values, and thus guarantees the active participation of the citizens into the democratic culture and democratic values. In this regard, it can be

¹³³ As noted before, Rawls makes a distinction between freedom of speech on political issues on the one hand, and freedom of speech on philosophical, religious, or moral issues on the other. While a constitutional consensus guarantees the former, only an overlapping consensus guarantees the latter.

argued that while a constitutional consensus implies a ‘negative’ consolidation, an overlapping consensus implies a ‘positive’ consolidation.’¹³⁴

3.3 Overlapping Consensus in View of the Democratization Literature

It can be argued that overlapping consensus goes beyond the minimal requisites of procedural democracy and aims for a deeper democratic culture and a broader base of economic democracy. It is clear from Rawls’ writings that he does not consider constitutional consensus enough for long run stability and genuine democratic consolidation in a country for reaching an enduring and secure democratic regime.¹³⁵ He therefore strives for a deeper societal consensus, which he terms ‘overlapping consensus.’ Rawls presupposes that unless the basic structure of a society is affirmed by an overlapping consensus, that democratic polity will not be totally consolidated. In this regard, Rawls naturally finds constitutional consensus insufficient when compared to overlapping consensus. Regarding this issue, Rawls says:

A purely political and procedural constitutional consensus will prove too narrow. For unless a democratic people is sufficiently unified and cohesive, it will not enact the legislation necessary to cover the remaining constitutional essentials and basic matters of justice, and conflict will arise about these. There must be fundamental legislation assuring freedom of association and freedom of

¹³⁴ Here, it needs to be acknowledged that as much as a constitutional consensus secures certain democratic attitudes, it might have some connection to positive consolidation as well, however this is not a dominant dimension of constitutional consensus since constitutional consensus is only a consensus on minimal democratic procedures without securing other more substantive and deeper democratic values. Rawls associates deeper and wider dimensions of democratic consolidation with what he calls ‘overlapping consensus,’ therefore overlapping consensus is related in this study to positive consolidation, while constitutional consensus is rather related to negative consolidation since it is foremost related to the disappearance of anti-democratic groups and the sustenance of minimal procedures.

¹³⁵ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.165-167. See also Klosko, George. 1993. “Rawls’ Political Philosophy and American Democracy,” *American Political Science Review*, 87(2): 348-359.

movement; and beyond this measures are required to assure that the basic needs of all citizens can be met so that they can take part in political and social life.¹³⁶

Rawls goes as far to say that a constitutional consensus is only a literal consensus:

A constitutional consensus at the level of principles viewed apart from any underlying conception of society and citizen—each group having its own reasons—is a *consensus taken literally*. It lacks the conceptual resources to guide how the constitution should be amended and interpreted.¹³⁷

What this implies is that Rawls sees constitutional consensus as generally more favorable than *modus vivendi*, but not as good and preferable as overlapping consensus. One can interpret Rawls' emphasis on the need for an overlapping consensus as a striving towards a maximalist democratic consolidation.

3.3.1 Overlapping Consensus and Maximalist Democratic Consolidation

While Rawls relates minimal and procedural issues to 'constitutional consensus,' he relates the substantive issues, such as political and economic issues, as well as long-run legitimacy to the stage of 'overlapping consensus.' As it was noted, whereas a constitutional consensus is confined to only democratic procedures of government, an overlapping consensus takes place around a conception of justice which supposedly arranges the whole structure of a society in a just and legitimate way. An overlapping consensus, according to Rawls, would yield deep legitimacy regarding economic and social matters. In this regard, it can be argued that an overlapping consensus is potentially quite broad, deep, and maximalistic.

¹³⁶ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.166.

¹³⁷ *Ibid.*, p.165 (italics mine). Rawls notes that the judges, like other citizens but may be but more so as exemplars of public reason, will need to develop a "political conception of justice in light of which the constitution in their view, is to be interpreted and important cases decided."

When an overlapping consensus is possibly reached in a country, that would imply that citizens do not just passively accept and are content with a generic liberalism, but rather they actively affirm (liberal) democracy and its substantive values with a moral justification derived from within their own comprehensive doctrines. What this means is that different groups like the religious conservatives, nationalists, social democrats, and other groups may actively affirm the substantive values of (liberal) democracy from within their own world-views. Each might accept certain liberal democratic values for quite different reasons, but they might somehow reach a consensus eventually. For example, 'equality of opportunity' could possibly be justified on quite different grounds, say by a social democrat and a religious conservative; or by a businessman and a worker. However, Rawls assumes that such differences would not be a problem, as long as people reach a consensus on the value of equality of opportunity at a certain level of generality.

3.3.1.1 Overlapping Consensus and Interest Struggles

Rawls, as a political theorist, is aware of the interest struggles within society while establishing a well-ordered democratic society and in this regard, he points out the necessity of finding an equilibrium among the conflicting economic and political interests.¹³⁸ He notes that unless a solution is reached to moderate the economic rivalry, an overlapping consensus would practically be impossible. He notes:

If the liberal conceptions correctly framed from fundamental ideas of a democratic political culture are supported by and encourage deeply conflicting political and economic interests, and if there be no way of designing a

¹³⁸ One can possibly read well-ordered society as a maximally consolidated democracy.

constitutional regime so as to overcome that, a full overlapping consensus cannot, it seems, be achieved.¹³⁹

3.3.1.2 Overlapping Consensus and Economic Democracy

Rawls maintains that the focus of an overlapping consensus is a ‘class of liberal conceptions that vary within a certain more or less narrow range.’ Rawls’ liberal alternative in this regard is ‘justice as fairness’ which he says is based on the two principles of justice.

Rawls argues that the two principles of justice would normally be compatible with either a property-owning democracy or a liberal (market) socialism. In this regard, Rawls’ understanding of justice as fairness to provide political and economic justice approaches the maximalist notions of democracy such as ‘economic democracy’ which takes democracy not only as merely a ‘form’ but also as a positive mechanism to empower people as ‘citizens.’ It could be argued that such a social democratic conception of citizenship would in general be parallel to T.H. Marshall’s notion of democracy and citizenship.¹⁴⁰

3.3.2 Overlapping Consensus and Positive Consolidation

Regarding negative and positive consolidation, it can be said that whereas a constitutional consensus primarily guarantees ‘negative’ consolidation, an overlapping consensus goes beyond this and strives for the active affirmation by the citizens of a wide range of democratic norms and values (including equality) by virtue of a long socialization and

¹³⁹ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.168.

¹⁴⁰ Rawls in this regard writes: “...below a certain level of material and social well-being, and of training and education, people simply cannot take part in society as citizens, much less equal citizens” (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.166.)

deliberation process, and thus overlapping consensus conceptually approaches positive and maximalist notions of democratic consolidation.¹⁴¹ According to Rawls, a democratic regime, reaching such a consensus, would not only be institutionally consolidated, but also it would enjoy deep political and economic legitimacy and long-run stability.

3.3.3 Some Criticisms against Rawls' Insistence on Overlapping Consensus as the Basis of Political Stability

Rawls' insistence on forming an overlapping consensus and his depiction of *modus vivendi* and constitutional consensus as insufficient for providing stability in the society is criticized by some authors such as Baier and Dauenhauer. Baier, from whom Rawls borrows the concept of constitutional consensus, argues that a constitutional consensus is enough for securing stability; therefore, an overlapping consensus, as Rawls suggests, is not needed. Dauenhauer, on the other hand, argues that a stable democracy does not require a constitutional consensus or overlapping consensus to be stable, but instead a *modus vivendi*, the initial rules of which are well established. He argues that a democracy would sufficiently be secured by an appropriate design of government and separation of powers and that is quite sufficient for stability and there is no need for any normative consensus such as constitutional consensus or overlapping consensus, which he argues would harm stability itself.

In this regard, from these discussions and criticisms, it can be concluded that while Baier and Dauenhauer side with a relatively minimalistic conception of democratic

¹⁴¹ Rawls states that reaching an overlapping consensus would require a long and intensive deliberation process among the citizens on substantive political issues. (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.158-168.)

consolidation, Rawls sides with a more maximalistic conception of democratic consolidation.

3.3.4 Constitutional Consensus, Overlapping Consensus, and Linearity

Although Rawls considers overlapping consensus as a single concept, such a consensus cannot possibly happen once and for all in all matters. That is to say, it requires a consensus on many diverse issues. For example, there could be an overlapping consensus on distribution of justice, but this would not necessarily guarantee an overlapping consensus on ethnic relations, or vice versa. Therefore, an overlapping consensus should be thought as an issue with multi-components. Furthermore, each component might be at a different and unequal level of development.

In a country in which a constitutional consensus does not exist yet, there could well be certain issues on which an overlapping consensus prevails among social and political groups. For example, in a country that is still trying to settle basic political rights and liberties (i.e. constitutional consensus), might well have a consensus on issues of distribution of wealth, gender issues, or religious matters, in ways that may principally be not incompatible with liberal democracy. In this regard, in the Turkish case, although Turkey, as a borderline case, is still trying to consolidate constitutional consensus, this factor should not prevent the Turkish citizens from discussing the possibility of a (overlapping) consensus on certain issues such as distribution of wealth, secularism, or ethnicity.

In this regard, although Turkey is still coping with issues of constitutional consensus, it does not have the luxury of giving up the quest for a possible overlapping

consensus on certain issues. Turkey is in a position to carry out both of them simultaneously. On the one hand, Turkey should try to secure constitutional consensus and, on the other hand, it should look for ways to secure a possible overlapping consensus on various political issues, such as the distribution of wealth, secularism, or the Kurdish issue.

In the next chapter, the relevance of constitutional consensus and overlapping consensus for contemporary Turkish democracy is discussed.

CHAPTER 4

CONTEMPORARY TURKISH DEMOCRACY: REFLECTIONS UPON CONSTITUTIONAL CONSENSUS AND OVERLAPPING CONSENSUS

In this chapter, the relevance of constitutional consensus and overlapping consensus for contemporary Turkish democracy is discussed. It can be argued that as Turkey moves closer to norms of liberal democracy, constitutional consensus and overlapping consensus become increasingly more relevant in this country.

As regards to form of government, Turkey made a transition from an authoritarian single-party regime to a multi-party democracy in 1946 and the first governmental change through an election took place in 1950. Since then, Turkey has been acquainted with the procedures of democratic government.¹⁴²

Turkey's transition to democracy, which aimed to moderate political rivalries within the country through democratic electoral procedures, was an attempt to form a 'constitutional consensus' among the political parties in Turkey. However, during the years of the transition, the major political actors' allegiance to democracy was not unconditional, nor was there a sufficient level of trust or civic loyalty among the political groups in the country. It could be argued that the political tension in the late 1950s and the following *coup d'état* in 1960 proved that the transition to democracy in Turkey was a mere 'modus vivendi.' In fact, democracy in those years was not immune to changes in

¹⁴² Turkey is a second-wave democracy.

the balance of power among the groups. The DP's (Democratic Party) majoritarian attitudes and the CHP's militaristic and pro-coup attitudes in the late 1950s were signs of a conditional and partialistic understanding of democracy in those years.

It could be argued that the *modus vivendi* conditions in Turkey generally continued during the 1960s and 1970s, as two more coups took place in 1971 and 1980. The political polarization and political terror in the country, and the non-conciliatory attitudes of the Demirel and Ecevit governments in the 1970s were quite un conducive to the emergence of a 'constitutional consensus' in Turkey. However, there was relatively high level of political freedom in the 1970s, as the Freedom House scores also affirm, which rendered Turkey a politically free, if not a secure or stable country in the 1970s.¹⁴³

It can be said that the 1980 coup caused a high level of authoritarianization in Turkey and harmed democracy. However, the constitutional amendments and democratic reforms in the next decades somewhat reversed the authoritarianization and liberalized the country. The authoritarian 1982 Constitution was amended twice in 1999, once in 2001, 2002, and 2004. These amendments along with the previous amendments in 1987, 1993, and 1995 have, as noted by Özbudun, "changed about one third of the 1982 Constitution," which was made under the authoritarian conditions of the 1980 coup.¹⁴⁴

It can be argued that the EU-based reforms in contemporary Turkey, especially the ones carried out during 2001-2004 created an unprecedented opportunity and hope for further democratization and civilianization in Turkey. The formation of a 'constitutional consensus' in Turkey has become more likely than in the past. The EU-Turkey relations are especially crucial in this regard. The EU-Turkey relations, despite the slowing down

¹⁴³ For Freedom House scores see Chapter 8.

¹⁴⁴ Özbudun, Ergun and Yazıcı, Serap. 2004. *Democratization Reforms in Turkey (1993 - 2004)*, Istanbul: TESEV, p.43.

of the relations in the last few years, is a strong driving force in the democratization of Turkey.

Since Turkey's declared candidacy in the Helsinki Summit (1999), Turkey has carried out many political reforms.¹⁴⁵ The Turkish Parliament has passed nine reform packages that have significantly improved the political and civil liberties in Turkey. Among the legal reforms are the abolishing of death penalty; the freedom of education and broadcasting in local languages such as Kurdish; increased freedom of speech, assembly and association; abolishing the State Security Courts; and decreased military influence in politics.

As a result of the reforms, in December 2004, the EU decided that Turkey 'sufficiently met' the Copenhagen Criteria; thus, in October 2005, the negotiations with the EU started. As of mid-2008, out of 34 chapters of the EU acquis, 10 have been opened, and one has been closed. (Eight chapters were frozen in late 2006 due to Turkey rejecting to open its ports to Cypriot planes and vessels. Provided that a peaceful solution can be created in the coming years among the Turkish Republic of Northern Cyprus and the Republic of Cyprus, the issue of Turkey's opening the ports to Cyprus can possibly be resolved.)

Regarding the overall reform process and its repercussions in Turkey, the legal and institutional reforms after the EU candidacy have caused much controversy, and they have been a source of differentiation and even polarization within the Turkish polity. The differentiation is to such an extent that it can be considered a critical and defining line of

¹⁴⁵ For the details of the process that led to Turkey's EU candidacy and the problems faced in the early reform process, see Yetkin, Murat. 2002. *Avrupa Birliği Bekleme Odasında Türkiye* (Turkey in the Waiting Room of the European Union). Ankara: Imge.

contemporary Turkish politics. On one side of the line, there are the nation-state supporters with more nationalist and communitarian tendencies; on the other side of the line, there are pro-EU groups with more supra-national and liberal leanings.¹⁴⁶

In general, the EU's democratic support of Turkey is quite important in terms of keeping Turkey within the limits of liberal democracy. The EU's influence is especially crucial in relation to party closure cases. For instance, in the recent closure case against the AKP (Justice and Development Party), the EU's diplomatic influence on the verdict has been quite critical. Had there not been such pressure from the EU and the international community, the Court, considering its internal structure, could have closed this political party that is in government. In this regard, the EU's and the international community's influence, along with internal dynamics, has been decisive.

In the next part, the issue of 'constitutional consensus' is discussed in the context of Turkish democracy.

4.1 Contemporary Turkish Democracy and 'Constitutional Consensus'

As discussed in the previous chapters, Rawls notes that as long as a liberal regime in a country relies on conditions for its existence and depends upon the balance of power

¹⁴⁶ It can be argued that today the main issues of contemporary Turkish politics are democratization, the EU, and the divergences on these issues among the political groups. It seems that an important and basic political competition in today's Turkish politics is between the (nationalist and isolationist) communitarians versus the (pro-EU) liberals. It can be argued that this new axis of power competition is more emphasized in Turkey today than the traditional self-placement of left and right. The left and right categories are still relevant and very important; however, in terms of power alignments, the competition seems to be between the statist groups versus the supranational groups. The statist bloc consists of both right-wing nationalists and left-wing nationalists, and the supranational (pro-EU) bloc consist of both right wing and left-wing liberals, as well as some pro-European democratic socialists.

Within such a political environment, it is not considered surprising to see the left-wing (such as the CHP) and right-wing groups (such as the MHP) on the same side (by virtue of being statist, nationalist), and to see the conservative liberals, left-wing liberals, and some democratic socialists on the other side (pro-EU side). One could say that while the nationalists align mostly with particularist and isolationist policies, the pro-EU groups align with more universalist policies.

among competing groups, then it can be called a 'modus vivendi.' In a modus vivendi, Rawls says, loyalty to democratic procedures is conditional at best and depends on self or group interests and balance of power among groups.¹⁴⁷

On the other hand, if democracy in a country relies on a popular democratic consensus and political rivalry is handled through procedural mechanisms and by virtue of the existence of moderation and cooperation, then it can be said that there exists a 'constitutional consensus' (democratic consensus). Rawls notes that in countries where constitutional consensus prevails, loyalty to democratic procedures does not depend on self or group interests, but relies on a principled acceptance of the democratic rules (as the 'only game in the town').

Concerning the possibility of forming a constitutional consensus in Turkey, it can be argued that Turkey has some advantages and disadvantages. The advantages are:

1. Holding elections is internalized and taken for granted by the citizens.
2. There has been relative constitutional liberalization in recent years.
3. The EU is a motivating factor for further political reforms.
4. Civil society organizations are increasing in number and most of them are contributing to democracy.
5. Socio-economic development makes the conditions more conducive to democracy.

On the other hand, the disadvantages are:

1. Problems with the practice of basic rights and liberties
2. Political autonomy and influence of the Turkish military in politics
3. Deficiencies in the rule of law

¹⁴⁷ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.145.

4. The controversial and illiberal practices of the judiciary
5. Ethnic and political polarization

As noted in previous chapters, Rawls notes that in order for a constitutional consensus to be complete, three conditions need to be met. Regarding the question of whether these three criteria are met in contemporary Turkey, each of these three criteria will be analyzed in the next pages.

4.1.1 A Clear Definition of the Basic Political Rights and Liberties in the Constitution

It has been reported by the EU that Turkey met the political criteria of the EU's Copenhagen Criteria as of late 2004; thus, it could be argued that Turkey met the first criteria of a constitutional consensus, namely a clear definition of the basic political rights and liberties. Below, the recent democratic reforms pertaining to political rights and liberties will be mentioned based on Özbudun and Yazıcı (2004), and Aydın and Keyman (2004).

4.1.1.1 Democratic Reforms Pertaining to Political Rights and Liberties in Contemporary Turkey

- Death penalty has been abolished (2004).
- Broadcasting and education in local languages, such as Kurdish, have been allowed (third reform package, August 2002).
- The State Security Courts have been abolished (16 July 2004).

- The State monopoly on broadcasting has been removed by an amendment to the constitution in 1993, and private TV channels and radios have started broadcasting since then.
- The expression “language prohibited by law” in Article 26 is repealed in 1991. (The ban on speaking Kurdish is removed).
- The members of a party, which was closed down by the Constitutional Court were forbidden from politics forever (Article 69); however, with the 1995 amendment, the ban from politics was limited to a period of five years.
- The individuals who were convicted of “ideological and anarchistic actions” were not eligible for Parliament (Article 76), however by an amendment on 26 December 2002, the expression “ideological and anarchistic actions” were replaced by “terror actions.”
- Voting age was lowered to 18 (1995).
- University students and university teaching staff were allowed to be members of political parties, which had been forbidden after the 1980 coup (1995).
- Political parties were allowed to have political and economic connections with trade unions, associations, foundations, cooperatives, and public professional organizations, which was banned by Article 14 of the 1982 Constitution (this amendment was made in 1995).
- The associations, foundations, labor unions, and public professional organizations were allowed to carry out (political) activities, which were previously banned as being out of their defined scope (Article 34 amended in 2001).

- The amendments in 1995 and 2001 made it more difficult to prohibit political parties (Constitutional Court can only prohibit a party by the three-fifth majority of its members instead of a simple majority).
- Transitional Article 15 (third paragraph) of the constitution that barred the review of constitutionality over the laws and ordinances passed during the National Security council regime was eliminated (2001 amendment).
- The seventh harmonization package: Monthly meetings of the NSC was made once every two months, and a civil general secretariat could possibly be appointed to the NSC, and the number of the civilian members in the Council has been increased (30 July 2003).
- International treaties were made precedent over domestic laws (2004).
- The amendment in 2001 stipulates that the “essence of the fundamental rights and liberties” are to be protected while making legal amendments.
- Clauses 141, 142, 163 of the penal code, which punished communist and anti-secular activity, were removed in 1991.
- The Law on Associations was liberalized by the 2nd, 3rd, 4th, and 5th reform packages.¹⁴⁸ With a recent law passed on July 17 2004, a few important changes have been made. Accordingly, associations are no longer required to obtain prior authorization for foreign funding, partnership, or activities. Non-governmental organizations (NGOs) are permitted to open representative offices for federations and confederations internationally. NGOs will be able to form temporary platforms/initiatives to pursue common objectives.

¹⁴⁸ Özbudun, Ergun and Yazıcı, Serap. 2004. *Democratization Reforms in Turkey (1993 - 2004)*, Istanbul: TESEV, p.20.

- Article 68, which stipulates “political parties cannot organize and function abroad, cannot form discriminatory auxiliary bodies such as women’s or youth branches, nor can they establish foundations,” was repealed (1995).
- Article 8 of the Anti-Terror Law (propaganda against the indivisible unity of the state) was repealed with the sixth reform package. This reform was crucial, as it was a very broad clause that was commonly referred to in prosecutions¹⁴⁹ (19 July 2003).
- The minimum sentence under Article 159 of the Penal Code (insulting the state and the state institutions and threats to the indivisible unity of the Turkish Republic) has been reduced. Expression of opinions intended only to criticize and not intended to insult or deride these institutions were kept exempt from punishment (August 2002).
- The sanction of depriving a political party from state financial assistance was introduced alongside dissolution. Dissolution decisions that required a simple majority in the Constitutional Court now require a three-fifths majority, making it more difficult to close down political parties (Article 149, 2001 amendment).
- The Press Law was amended to repeal prison sentences for criminal offences related to the press, thereby further extending the freedom of expression (9 August 2002).
- The age limit for organizing demonstrations has been reduced from 21 to 18 (2004).

¹⁴⁹ Aydın, Senem and Keyman, E. Fuat. 2004. “European Integration and the Transformation of Turkish Democracy,” CEPS-EU-Turkey Working Papers No.2, p.30.

- The ability of governors to postpone meetings has been restricted. Meetings can now be banned only in cases where there is a clear and imminent threat of a criminal offence being committed. The number of meetings that were postponed or prohibited was reduced from 141 in 2001 to 95 in 2002.

These reforms, along with past reforms, have more or less secured basic political rights and liberties in Turkey. However, the issue of ‘practice’ creates question marks. Although the basic political rights and liberties exist in the constitution, there are still problems concerning the role of the military in Turkish politics, problems related to freedom of speech, and problems concerning the free functioning of political parties. It should be especially emphasized that the extraordinary role of the Turkish military in politics, despite the decreased military influence in recent years, creates problems in terms of rule of law and effective civilian rule, which will be discussed in the coming pages of this chapter. In the following section, the second criteria of a constitutional consensus, namely ‘the common and effective use of public reason in political matters,’ is discussed in relation to Turkey.

4.1.2 The Common and Effective Use of Public Reason in Political Matters

The constitutional amendment in 1993, which abolished the state monopoly on radio and television broadcasting in Turkey, opened new channels for the political and social groups in Turkey to voice their opinions. This development has caused immense changes in the political and social landscape of the country. Many issues that had been a taboo until then started to be discussed in a pluralist manner. As a result, in the 1990s and 2000s, different political and social groups started to increasingly recognize the fact that

‘others’ who are completely different from them live in the same country. They realized that there are people who have very different political, moral, religious, and philosophical outlooks in life. This prompted them to recognize the ‘fact of plurality’ and the indispensable need for reciprocity. That is to say, people realized the fact that they owe reciprocity to others who live in the same country.

The plural and reciprocal experiences of people gradually enabled them to realize that they are in a position to explain their arguments to the larger public through arguments in a way that is communicable to them. As an example, in the 1980s, the people engaged in the headscarf issue used to justify their position with reference to ‘religious values’ and as a ‘truth claim’ that applied to all. However, starting from the late 1990s they started to voice their demands not as a ‘religious issue’ but as a ‘political’ issue that has to be dealt at the level of ‘rights and liberties.’ This should be considered as a shift from a unilateral politics to an interactional politics, in which people persuade others by using public arguments.¹⁵⁰

Besides the transforming Islamist movement in Turkey after the late 1990s, also the Kurdish groups after Turkey’s EU candidacy started to express themselves more and more from within a democratic and rights-based language. Contrary to this general trend, the political violence of the PKK is apparently against the use of public reason since it does not rely on civility or persuasion, but only terror.

As a conclusion, it can be argued that there has been much improvement in Turkey recently in terms of common and effective use of public reason, and it can be said

¹⁵⁰ In 1980s and early 1990s, political groups in Turkey were basically producing political discourses within their narrow circles and without much reference to universal criteria or public reason. However, starting from the early 2000s, especially by the influence of EU, the political groups in Turkey started to formulate their projects from within a rights-based and publicly communicable language.

that despite the existence of some uncivil and unreasonable groups, Turkey more or less meets Rawls' second condition of a constitutional consensus.

4.1.3 The Prevalence of Cooperative Virtues in Political Life

It can be argued that there has been relative improvement in terms of cooperative virtues in Turkey recently. A few examples of this improvement are as follows. The first one is that the political parties cooperated during the constitutional amendments made in 1987, 1993, 1995, 1999 (twice), 2002, 2004, 2005, and 2007.¹⁵¹ Secondly, the Ecevit-Yılmaz-Bahçeli coalition and their cooperative attitude for passing some harmonization packages for the EU was another example of political cooperation.¹⁵² The relatively cooperative attitudes of the political parties on the issue of the EU are generally a positive development in terms of consensual and cooperative politics in Turkey. However, it should be noted that the CHP's (Republican People's Party) and MHP's (Nationalist Action Party) reluctance for cooperation on EU-based issues creates certain problems in EU-Turkey relations.

In terms of prevalence of cooperative values in political life, there are still major and unresolved issues in Turkey. Distrust, fear, and negativity are major issues in the relations among political groups in Turkey. In fact, Turkey's being torn between modernity and tradition, and to some extent between center and periphery, cause

¹⁵¹ Özbudun, Ergun and Yazıcı Serap. 2004. *Democratization Reforms in Turkey, 1993-2004*. Istanbul: TESEV Publications, p.13.

¹⁵² In the 1990s, there was much polarization among the elites. Ethnic, religious, and ideological polarization precluded the possibility of an elite convergence. However in the 2000s, the EU perspective has presented some chance for the elites to converge on certain political issues. For example, the Ecevit-Yılmaz-Bahçeli coalition (1999-2002), was an example of compromise and cooperation among the three ideological positions, namely center left, center right, and the nationalist right. These three parties formed a pact for realizing the first, second, and the third reform packages for satisfying the Copenhagen criteria. They made an important constitutional amendment in 2001 in which 15 articles of the constitution were amended.

problems in this regard. Most people still think in terms of ‘us’ versus ‘them,’ which is a problem in terms of having a well-functioning democracy in Turkey.

It is observed that the AKP and CHP as the two major parties in the Parliament cannot easily cooperate with each other due to distrust.¹⁵³ The political basis of this distrust goes deep into the political polarizations of Turkish political history, which have to be relieved for a better functioning democracy in Turkey. However, when compared with the 1970s (Ecevit vs Demirel) or 1990s (Yılmaz versus Çiller), the recent relations between politicians, despite some problems between Baykal and Erdoğan, seem relatively better in terms of cooperative virtues.

In relation to the issue of cooperative virtues, which is the third criteria of a constitutional consensus, it could be said that Turkey has gained much ground in this regard, however, the improvements are not at a sufficient level yet. There are still incidents of intolerance, distrust, narrow-mindedness, fanaticism, and sectarian behaviors in Turkish politics. These are definitely against civility and cooperation in politics. However, it should be noted that despite incidents of such negativities, the majority of citizens in Turkey are becoming more ‘reasonable’ and ‘cooperative’ in recent years, as they recognize that Turkey needs more civility and democracy.

Addressing the issue of whether Turkey meets the three conditions of ‘constitutional consensus,’ it can be argued that although Turkey has made much progress in recent years in terms of meeting the Copenhagen criteria and achieving a relatively civil political culture, it has still not reached ‘constitutional consensus.’ This is

¹⁵³ It is observed that the AKP was more cooperative and civil in its first term of government, however it shows increasing signs of unilateral, uncooperative, and polarizing policies in its second term of government. On the other hand, the CHP gives very little hope in terms of cooperation since this party and its leader relies mostly on negative discourses rather than positive and constructive ones.

because unconditional allegiance to democracy by all major parties and sufficient cooperative virtues in political life does not yet exist among certain major political actors in the country, including certain sections of the military, judiciary, and the political parties.

Regarding Turkey's current course of democratization and where exactly it is headed, it is useful to refer to Andreas Schedler's classification of regime types: authoritarianism, electoral democracy, liberal democracy, and advanced democracy.¹⁵⁴ In reference to this categorization, it can be said that Turkey is an electoral democracy, which is yet trying to become a liberal democracy, for Turkey today is struggling with issues of democratic consolidation (both negative and positive consolidation).

In sum, it can be argued that although there have been significant political improvements in Turkey in recent years, there are still certain deficiencies, especially in terms of rule of law and the practice of basic political rights and liberties. Thus, Turkey gives the impression of being a 'borderline case' in terms of meeting the conditions of a constitutional consensus. However, in the coming years, if Turkey can possibly produce elite convergence on the problematic political issues, as well as create a more liberal constitution and enjoy some further cooperation among major groups, there might be more space for a consolidated constitutional consensus in Turkey.

In the next section, the extraordinary and anti-democratic status of the Turkish military within Turkish politics, is discussed.

¹⁵⁴ See Schedler, Andreas. 1998. "What is Democratic Consolidation," *Journal of Democracy* 9(2): 91-107.

4.1.4 The Controversial Status of the Turkish Military in Turkish Politics

Any analysis of Turkish politics or democracy would be incomplete without reference to the unusual, controversial, and undemocratic status of the Turkish military in the overall structure of the Turkish polity. It is a fact that since the Ottoman times and the foundation of the Turkish Republic, the military, along with the civil bureaucracy, have dominated the political regime of Turkey in direct and indirect ways.¹⁵⁵ It needs to be noted that due to the deficiencies of the civil governments and the interferences of the Turkish military into daily politics, Turkey's regime is mostly considered to be a "hybrid regime" in which political power is *de facto* shared by the civil governments with the military.¹⁵⁶

The Turkish military assumes a role of "protecting and safeguarding" the Turkish Republic from "internal" as well as "external" enemies, the implications and boundaries of which is open to much controversy. The expression "protecting and safeguarding" was included into the Military Internal Service Code adopted in 1961 (Article 35), which has sometimes been used to justify anti-democratic interventions in Turkey. In Turkey, the military carried out three coups (1960, 1971, 1980) and a soft coup, or postmodern coup (1997). Recently, it issued an 'e-memorandum' in April 2007 during the presidential election process (This e-memorandum and other recent major authoritarian events in Turkey will be analyzed in the next section.)

The Turkish military mostly interferes into politics on two major issues. The first one is the issue of secularism, and the second issue is (Kurdish) nationalism. The Turkish

¹⁵⁵ For an analysis of the relation between the military and politics in Turkey from a historical perspective, see Hale, William. 1994. *Turkish Politics and the Military*. London: Routledge.

¹⁵⁶ According to the "democracy index" of *The Economist* in which countries are categorized under four categories which are authoritarian regimes, hybrid regimes, flawed democracies, or full democracies, Turkey gets 5.69 points over 10 in year 2008 and is considered to be a "hybrid regime." (www.economist.com/media/pdf/Democracy_Index_2007_v3.pdf.)

military considers the supporters of religious fundamentalism and ethnic Kurdish nationalism as internal enemies, and makes its interventions into politics especially on these two issues. It needs to be noted that the internal enemy in the 1970s was the socialist left, which was repressed by the military coup in 1980.

It is sometimes claimed by some authors that the military interventions in Turkey are different in nature from the interventions in some other countries, such as the ones in Latin America where the militaries stay in power for long periods of time. It is argued that the Turkish military carries out ‘moderating coups’ and leaves the government to civil authorities when it thinks it has sufficiently re-organized the political environment.¹⁵⁷ Despite the partial truth of this argument, a critical and crucial fact needs to be brought into attention here, which is that, although the Turkish army does not stay in government for long years in government, it is routine for the Turkish military to control and manipulate politics through the National Security Council.¹⁵⁸ Although some relative civilianization has been achieved by the EU reforms in Turkey in recent years regarding the National Security Council, the Turkish military still has an anti-democratic status within Turkish polity when compared to its Western counterparts.¹⁵⁹

In order to normalize the civil-military relations in Turkey, Turkish citizens and the political elite need to show a very strong and persistent will power and take initiative to curb the anti-democratic and unaccountable political power of the Turkish military. Unless the electorate and the political elites show a unified and strong will against the

¹⁵⁷ Özbudun, Ergun. 1996. Turkey: How Far from Consolidation?,” *Journal of Democracy* 7(3), pp.123-138.

¹⁵⁸ The NSC was established after the 1960 coup.

¹⁵⁹ For the typologies of civil-military relationships and the “liberal-democratic model” in particular, see Hale, William. 1994. *Turkish Politics and the Military*. London: Routledge, p.308.

military interventions in Turkey, consolidation of democracy would be highly unlikely in this country.

In the next section, recent developments in Turkish democracy (2007-2008), which have been highly influenced by military and judicial interferences, are covered and their political implications and especially the negative effects on the healthy functioning of democracy are discussed from a liberal democratic point of view.

4.1.5 Recent Developments in Contemporary Turkish Democracy (2007-2008)

It can be argued that Turkey went through a spectacular period of democratization during 2001-2004, a period of political stagnation during 2005-2006, relative authoritarianization during 2007-2008 (and some relative democratization in 2009¹⁶⁰). It can be argued that the presidential election in April 2007 triggered some controversial events, which culminated in the e-memorandum of the Turkish Armed Forces and then the closure cases against the AKP, as well as the DTP (Democratic Society Party). Below is presented the major controversial and authoritarian events during 2007-2008.

The Major Controversial and Authoritarian Events in Turkey during 2007-2008:

During 2007-2008 as a result of the judiciary's and the military's meddling into politics, some authoritarian events, including closure cases against political parties, took place.

The three major events are as follows:

- The e-memorandum related to the presidential election process, published on the web page of the Chief of General Staff on 27 April 2007.

¹⁶⁰ There have been some democratic reforms related to the Kurdish issue in 2009, including the opening of a TV channel on state-run TRT (Turkish Radio and Television Corporation), which broadcasts in Kurdish (TRT 6).

- The Constitutional Court's controversial decision annulling the first round of the presidential election arguing for the necessity of 367 parliamentarians to be present (quorum) during the election process (1 May 2007).
- The closure cases filed against two political parties, the first one against the pro-Kurdish and allegedly separatist DTP (Democratic Society Party) on 16 November 2007, and the second one against the party in government, the AKP, being accused of anti-secularism, on 14 March 2008.

These events caused some relative authoritarianization during 2007-2008. It can be argued that one of the reasons for this authoritarianization is the AKP's slowing down of the political reforms. It is a fact that the AKP, after receiving a date for starting the negotiations with the EU in 2005, and then increasingly after the landslide election victory in 2007, has started to slow down the democratic reforms and somewhat started to compromise with the authoritarian political regime in the country. In this regard, it has been argued by authors such as Cizre (2007) and Aktar (2009) that the recent authoritarian backlash has been possible due to the fact that the AKP has somehow given up pursuing the reforms as perseveringly in the last couple of years.

Regarding the democratizing reforms and their slowing down, it can be argued that the EU's negative stance towards Turkey in the last couple of years has been an influential decelerating factor. Especially France's and Germany's negative attitudes towards Turkey have decreased the rate of support in Turkey for joining the EU as well as the rate of support for the democratic reforms the EU demands from Turkey. All these

negative factors might be true. However, from the government's perspective, this is not to be a reason for slowing down the democratic reforms.

For a better understanding of the hurdles in relation to the transition to a more functional democracy in Turkey, it is useful to refer to the two stages that O'Donnell puts forth. O'Donnell, as mentioned in the previous chapter, argues that 'democratic transition' entails these two stages:

The first is the transition from the previous authoritarian regime to the installation of a democratic government. The second transition is from this government to the consolidation of democracy or, in other words, to the effective functioning of a democratic regime. . . The second transition will not be any less arduous nor any less lengthy; the paths that lead from a democratic government to a democratic regime are uncertain and complex, and the possibilities of authoritarian regression are numerous.¹⁶¹

It can be argued that Turkey is currently attempting to make the transition from a formal democratic government to a democratic *regime*, and experiencing the hurdles of such a transition.

Related to the controversial events mentioned above, it can be said that the civil and military bureaucracy's clash of interests with the ruling AKP has been a crucial factor in the background of these events, and this clash of interests has some potential to create further tension in the coming years. This tension between two opposing foci of power has definitely a 'class' dimension as well.

One of the most dramatic changes taking place in today's Turkey is the changing class structure and the transforming center-periphery relations. The traditional lower classes are becoming more of a middle class in today's Turkey and starting to assert

¹⁶¹ O'Donnell, Guillermo. 1992. "Transitions, Continuities, Paradoxes," In Scott Mainwaring, Guillermo O'Donnell, and J. Samuel Valenzuela (Eds). *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspective*. Notre Dame: University of Notre Dame Press, pp.48-49.

themselves as a new power center; in response to this, the traditional center (civil and military bureaucracy) tries to stop the ongoing social and political change.¹⁶²

It is observed that the changing class patterns in Turkey today dislocate many things at the socio-political level. It is seen that the political competition arising out of the changing class patterns in Turkey is expressed via 'religiosity' versus 'secularity.' It can be argued that these two categories are used in reference to 'class' position as much as 'religious' positions. Interestingly, it is observed recently that the AKP, as the representative of the ascending conservative classes, is going through a peculiar and difficult process of adopting capitalism, secularization, and democratization, which creates controversial events and tension in Turkey.

When considering the AKP's political character and its relation to democracy, a crucial fact that needs to be noted is that the AKP is an offshoot of previous religiously-oriented parties (such as the Welfare Party and the Virtue Party) which were anti-modernist, anti-EU, and anti-secular; however, the AKP has recently undergone a political transformation and has become more or less a moderate party that seems to take democracy seriously. One can say it has gained some ground in terms of liberalizing itself as well as Turkey via the EU-Turkey relations. However, it is observed that the state elite in Turkey sees the AKP's relation to democracy and secularism with some reserve and suspicion. In this regard, based on the AKP's practice and some empirical data, it seems that democracy and secularism are values that the AKP is still in the process of learning, as in the case of many other segments of the society. It seems that the AKP is trying to adapt itself to democratic values and secularism while blending them

¹⁶² Insel, Ahmet. 2003. "The AKP and Normalizing Democracy in Turkey," *The South Atlantic Quarterly*, 102(2/3): 293-308.

with some religious and conservative values, which might sometimes clash with Western norms of liberalism.¹⁶³

Regarding the relations between the political center and periphery in Turkey, one can argue that although the gap between the center and the periphery is narrowing, there are still daily evidences of this dichotomy in today's Turkey. The fervent debates, conflicts, and events around the presidential election in 2007 were immediate evidence of this dichotomy. It is a well-known fact that the presidency in Turkey is seen as one of the most critical bastions of the regime in Turkey. Therefore, the military, which sees itself as the guardian of the secularist regime, was very uneasy about the possibility of a parliamentarian coming from the background of political Islam to be elected as the President (be this R. Tayyip Erdoğan or Abdullah Gül, both of whose wives wear the Islamic headscarf). After Gül's candidacy was announced, the tension in the country rose to a climax, and then three controversial and authoritarian events took place during 2007-2008. In the next pages, these three events are discussed.

I. The e-memorandum related to the presidential election process, published on the web page of the Chief of General Staff on 27 April 2007:

The presidential election in April 2007 caused great political polarization in Turkey and precipitated a political crisis in this country, which culminated in the e-memorandum published by the Chief of General Staff on 27 April 2007. It can be argued that the e-memorandum and the events in its aftermath led to some authoritarianization in Turkey. It actually started in relation to the presidential election. The AKP, which won the

¹⁶³ As in the case of AKP's trying to re-criminalize adultery in year 2004, which it soon abandoned after criticism from the society and media.

election in 2002 by gaining 34.28 percent of the votes, had an intention to nominate Tayyip Erdoğan for the presidential election in 2007. However, there were many reactions to this from the military as well as civil society, which organized a huge rally in Ankara's Tandoğan Square on 14 April 2007 against the candidacy of Erdoğan, or any other possible ex-Islamist candidate from the AKP.¹⁶⁴ The AKP eventually renounced Erdoğan's candidacy and instead decided upon the candidacy of Abdullah Gül, the Foreign Minister at the time. As a reaction to this, another rally was organized against Gül's candidacy on 29 April 2007 in Istanbul's Çağlayan Square. About one million people attended this rally.¹⁶⁵ The series of rallies then continued in various cities of Turkey.

A controversial and anti-democratic event during the presidential election was that, on 27 April 2007, the Turkish Armed Forces published the following statement on its website:

The problem that emerged in the presidential election process is focused on arguments over secularism. The Turkish Armed Forces are concerned about the recent situation. It should not be forgotten that the Turkish Armed Forces are a party in those arguments, and absolute defender of secularism. Also, the Turkish Armed Forces is definitely opposed to those arguments and negative comments. It will display its attitude and action openly and clearly whenever it is necessary. Those who are opposed to the Great Leader Mustafa Kemal Atatürk's understanding 'How happy is the one who says I am a Turk' are enemies of the Republic of Turkey and will remain so. The Turkish Armed Forces maintain their sound determination to carry out their duties stemming from laws to protect the unchangeable characteristics of the Republic of Turkey. Their loyalty to this determination is absolute.¹⁶⁶

¹⁶⁴ <http://arsiv.ntvmsnbc.com/news/405418.asp>.

¹⁶⁵ <http://www.turkishdailynews.com.tr/article.php?enewsid=71941>.

¹⁶⁶ http://www.tsk.mil.tr/10_ARSIV/10_1_Basin_Yayin_Faaliyetleri/10_1_Basin_Aciklamalari/2007/BA_08.html (translation taken from <http://www.turkishdailynews.com.tr/article.php?enewsid=71925>).

This statement has been interpreted as a memorandum (electronic memorandum or e-memorandum) by most commentators. Many people in Turkey have the conviction that such interventions into politics by the military is against the constitution and the legally confined duties of the military. It is a fact that neither according to the Turkish Constitution nor according to the Turkish laws does the military have a duty or any legal authority to make political statements such as the one above, which implies a threat of staging a *coup d'état*. It is needless to say that in a democratic regime, attempting to overthrow the government or threatening to do so would be a political crime against the democratic regime.¹⁶⁷

On the same day of this e-memorandum, the first round of the presidential election took place in the Turkish Grand National Assembly. However, the parliamentarians from the CHP, DYP (True Path Party), ANAP (Motherland Party), SHP (Social Democratic People's Party), HYP (People's Ascent Party), GP (Youth Party), and some independent parliamentarians boycotted the election. Yet, the AKP parliamentarians as well as five independent parliamentarians, two parliamentarians from ANAP, two from DYP and one from CHP attended the election session.¹⁶⁸ In the election, Abdullah Gül, received 357 votes out of 361 parliamentarians being present during the election.¹⁶⁹

Abdullah Gül could not receive two-thirds of the votes necessary for being elected in the first round. Therefore, another round was required. However, a controversial event took place. The CHP applied to the Constitutional Court for an annulment of the first

¹⁶⁷ Article 35 of the Military Internal Service Code states that the Turkish Armed Forces has a duty to "protect and safeguard the Republic." However, this statement in no way means that the Armed Forces can resort to undemocratic means for this aim.

¹⁶⁸ <http://www.radikal.com.tr/haber.php?haberno=219670>.

¹⁶⁹ Ibid.

round by putting forth the argument that in order for the election to be valid, two-thirds of the members (367), which the CHP argued to be the quorum, needed to be present during the election.¹⁷⁰ On 1 May 2007, the Constitutional Court announced that it had accepted the CHP's application and nullified the first round of the election (nine out of eleven members voted for nullifying the first round while only two members voted against it). As a result, on 2 May 2007, the second round of the election could not take place since the first round was already nullified.¹⁷¹

On 6 May 2007, the first round of the election was carried out again. The opposition parties' boycott continued and practically no election could be carried out in the Parliament. The repeated round resulted in Abdullah Gül's withdraw as the claimed 367 quorum was not met in the Parliament once again.¹⁷² On 9 May 2007, the presidential election process was postponed because there was no other candidate after the withdrawal of Gül. One day later, Prime Minister Erdoğan called for an early national election. In the election on 22 July 2007, the AKP received 46.6 percent of the votes; and after the election, Gül was elected President of the Turkish Republic in the third round of the election by the new Parliament.¹⁷³

II. The Constitutional Court's controversial decision of annulling the first round of the presidential election arguing for the necessity of 367 parliamentarians to be present (quorum) during the election process (1 May 2007):

¹⁷⁰ See Özbudun, Ergun. 2009. *Türkiye'nin Anayasa Krizi*. Ankara: Liberte, pp.60-63.

¹⁷¹ http://www.hurriyetusa.com/haber/haber_detay.asp?id=11639.

¹⁷² <http://arsiv.ntvmsnbc.com/news/407306.asp>.

¹⁷³ http://arsiv.ntvmsnbc.com/ntv/metinler/Yorum_Farki/ocak_2008/01.asp.

The Constitutional Court announced on 1 May 2007 that in order for the presidential election to be valid, there needed to be 367 parliamentarians present during the election in the Parliament.¹⁷⁴ This interpretation adopted by the Constitutional Court surprised the public, since according to the 1982 constitution, the quorum of meeting for parliamentary sessions is one-third of the total number of MPs, which is 184.¹⁷⁵

Presenting the ‘quorum of decision’ (367) as if it was ‘quorum of meeting’ (184) was perceived by many people as a politically motivated decision. It was assumed, not unjustifiably, that the 367 decision was taken somehow under the influence of the military’s e-memorandum that had taken place just a few days prior (on 27 April 2007).

III. The filing of two closure cases against political parties, the first one against the DTP (16 November 2007), and the second one against the AKP (14 March 2008):

On 16 November 2007, the Chief Prosecutor of Turkey's Supreme Court of Appeals, Abdurrahman Yalçınkaya, applied to the Constitutional Court asking for the closure of the DTP arguing that this party has been the hotbed of Kurdish separatist activities.¹⁷⁶ On 14 March 2008, Yalçınkaya applied to the Constitutional Court asking for the closure of the AKP and banning 71 AKP parliamentarians from politics for five years, arguing that this party has become the hotbed of anti-secular activities. On 31 March 2008, the Constitutional Court agreed to hear the AKP case.¹⁷⁷

On 30 July 2008, the Constitutional Court finally announced its decision, which was not to close down the AKP or ban any party officials, but to punish the party by

¹⁷⁴ Özbudun, Ergun. 2009. *Türkiye'nin Anayasa Krizi*. Ankara: Liberte, pp.51-55.

¹⁷⁵ Ibid., p.16.

¹⁷⁶ <http://arsiv.ntvmsnbc.com/news/426502.asp>.

¹⁷⁷ <http://arsiv.ntvmsnbc.com/news/441100.asp>.

cutting half of the state aid to the party. Out of 11 members, six members voted for the closure of the party. Four members, on the other hand, voted for the cutting by half the treasury aid to the party; and one member voted for the full acquittal of the party. The President of the Constitutional Court announced to the public that 10 out of 11 members of the Court expressed their conviction that the party has become a focal point of anti-secular activities.¹⁷⁸ Yet, he added that the Court came to the conclusion that the quality of being the focal point of anti-secular activities has not been grave enough to close down the party and had chosen to confine itself with punishing the party merely by reducing the state aid received by the AKP to half.¹⁷⁹

The other closure case, the one against the DTP, has not been finalized yet, and is still continuing at the time of the writing of this chapter. If this party would be closed, it would probably cause problems in terms of the democratic solution of the Kurdish issue. It is true that there are certain anti-democratic elements within this party; however, a possible closure would strengthen the faction that supports anti-democratic methods and violence.

Another recent issue in Turkey that needs to be mentioned here is the *Ergenekon* case, which is still continuing and regarded as highly important for further democratization and transparency in Turkey. This case started as a relatively modest one in 2007 but became a sensational and critical case with some arrests in July 2008, which were followed by some other arrests.

The Ergenekon case started in 2007 after some weapons and hand grenades were found in a shanty house in Ümraniye, Istanbul, that were allegedly planned to be used for

¹⁷⁸ <http://www.radikal.com.tr/Default.aspx?aType=HaberDetay&ArticleID=904967&Date=24.10.2008&CategoryID=97>.

¹⁷⁹ Özbudun, Ergun. 2009. *Türkiye'nin Anayasa Krizi*. Ankara: Liberte, pp.171-175.

plotting a coup against the AKP government.¹⁸⁰ Since 2007, a number of waves of detentions have taken place among people including active and retired top military officers, bureaucrats, academicians, journalists, artists, NGO leaders, and many other prominent political and social figures.

As part of the Ergenekon investigation, on 1 July 2008 some high-standing public figures were detained, and two retired generals, Şener Eruygur and Hurşit Tolon, were soon arrested for the alleged coup attempts in 2004.¹⁸¹ Veli Küçük, a retired general and an influential figure within the Ergenekon organization, was detained and then arrested on 22 January 2008.¹⁸² The so-called Ergenekon Organization, although not verified by the court yet, is alleged to have made plans to topple the AKP government through agitation and a military coup. The government's initiative and will power to inquire into such alleged coup attempts is an important and positive development in terms of protecting democracy and liberal values in Turkey. However, a critical issue needs to be mentioned here which is that, although it can be argued that the Ergenekon case is an opportunity for further democratization and civilianization, the AKP's using the Ergenekon trial in order to suppress its opponents presents a dangerous situation in terms of democracy. It can be argued that the government needs to be more careful in keeping the trial within legal limits and not politicize it to suppress its opponents. It is also crucial to note that the AKP government's policies toward some secular media and NGOs, as well as some unjustified detentions as part of the Ergenekon case, are seen by many people

¹⁸⁰ Hale, William and Özbudun, Ergun. 2010. *Islamism, Democracy and Liberalism in Turkey: The Case of the AKP*, London and New York: Routledge, pp.94-95.

¹⁸¹ <http://www.radikal.com.tr/Default.aspx?aType=Detay&ArticleID=886989&Date=06.07.2008&CategoryID=78>.

¹⁸² It is crucial to note that arresting retired generals who are accused of plotting a coup is an unprecedented event in Turkey, which can be considered important in terms of civilianization and democratization in Turkey.

in Turkey as politically biased and that it sometimes seems to turn into a form of political vengeance.

After discussing the recent controversial developments in today's Turkey, the next section discusses the issue of a possible overlapping consensus in Turkey.

4.2 Contemporary Turkish Democracy and Overlapping Consensus

Although overlapping consensus is depicted by Rawls as a stage to follow a finalized constitutional consensus, in practice there could be co-existence of efforts in a country for forming a constitutional consensus and overlapping consensus within the same time period. Thus, advances in different components of constitutional consensus and overlapping consensus in a country might possibly co-exist, and might mutually enhance each other. Different dimensions of constitutional consensus and overlapping consensus, in practice, might develop together, along with each other in a simultaneous manner, just like advancements and manifestations of modernity and *post*-modernity might co-exist in certain developing countries.

The operationalization of overlapping consensus as a concept is a relevant issue that has to be mentioned here. Although Rawls puts forth overlapping consensus without operationalizing it, overlapping consensus does need to be operationalized and its components need to be outlined in order to have empirical applicability. Institutional and social issues that would be the subject matter of justice, thus an overlapping consensus, might differ from country to country. In the Turkish case, one can observe that a few basic issues dominate the perceptions of the Turkish citizens in relation to justice. Although alternative issues might be contested, four major issues are mentioned in this

dissertation in relation to the possibility of forming an overlapping consensus. These are basic rights and liberties, social justice, secularism, and the Kurdish issue.¹⁸³

It could be argued that the recent reforms in Turkey relating to political rights and liberties, that makes a constitutional consensus more likely, also feed the likelihood of an overlapping consensus on certain issues such as the Kurdish issue. For example, the provision of freedom of speech and broadcasting in Kurdish not only contributes to political rights and a possible constitutional consensus, but also contributes to the chances of forming a social consensus on ‘just’ institutions in terms of ethnic relations, including better socio-economic infrastructure as well as cultural recognition of the Kurdish citizens living in the Turkish Republic.

Concerning democratic consolidation in Turkey, it was noted by Özbudun (2000) that the two issues that make democratic consolidation in Turkey difficult and less likely are political Islam and rising Kurdish nationalism. As of 2008, it could be argued that the Kurdish issue continues to be a major issue. Especially the terror of PKK in 2007 and 2008 makes an overlapping consensus on the Kurdish issue an urgent matter. The implications of “justice as fairness” might be quite relevant for this issue in Turkey. In this regard, the possibility of forming an overlapping consensus on the Kurdish issue is discussed in Chapter 7.

Concerning the issue of peaceful co-existence of different ethnicities, it should be noted that Turkey has a long history of multi-cultural co-existence and toleration. Especially the Ottoman experience in terms of toleration for differences might be noted. Yet, it needs to be acknowledged that the Ottoman experience had its own shortcomings

¹⁸³ As it was also mentioned in the Introduction, while basic *political* rights and liberties are the subject matter of ‘constitutional consensus,’ *substantive* rights and liberties pertaining to the *political and social realm* are the subject matter of ‘overlapping consensus.’

in terms of the unequal relations between the religious denominations, therefore the Ottoman experience cannot possibly be a reference point in today's republican Turkey, which takes secularism as a basic principle. A contemporary factor, nationalism (both Turkish and Kurdish), also makes it anachronistic. However, the values of multiculturalism could possibly be revitalized in Turkey with reference to contemporary notions of liberal values and 'constitutional citizenship.'

The other issue mentioned by Özbudun, namely political Islam, is not as relevant today as it was in 2000, considering the fact that the AKP, which comes from an Islamist political background, has turned more or less into a moderate conservative party; and the AKP, to a great extent, marginalized the Felicity Party (SP), which continues the radical *National Outlook* tradition.¹⁸⁴ However, one can see that the issue of secularism is still a relevant and controversial issue in contemporary Turkey. The headscarf issue and the disadvantaged status of the religious minorities, especially the Alewites, wait to be solved by social and political consensus. These and some other relevant issues of Turkish secularism will be mentioned in Chapter 6 in relation to forming an overlapping consensus on secularism in Turkey.

Another critical issue discussed in this dissertation in relation to democratic consolidation is the issue of 'social justice' and the possibility of forming an overlapping consensus on this issue in Turkey. The issue of social justice is not mentioned as a condition of democratic consolidation by minimalist consolidationists, but is taken more seriously by more maximalist theoreticians. Especially Rawls takes the issues of

¹⁸⁴ The AKP is qualified sometimes as a post-Islamist party in the media, or as an Islam-friendly party by authors such as Cizre (See Cizre, Ümit. 2007. *Secular and Islamic Politics in Turkey: The Making of the Justice and Development Party*. London: Routledge.)

social justice and distribution of wealth quite seriously and depicts his difference principle as the condition of long-run stability within a democracy.

Concerning a possible overlapping consensus on social justice in Turkey, it needs to be noted that in Turkey, despite a relative amelioration in the distribution of income in recent years, Turkey's Gini coefficient, which measures inequality, is still relatively higher than most stable democracies.¹⁸⁵ Assuming that stable democracies enjoy a lower inequality, it would be reasonable for Turkish governments to lower the current level of inequality in the coming years. Another related and important issue is that the larger proportion of economic inequality stems not from distribution of income but rather from distribution of wealth.¹⁸⁶ In this regard, a property-owning democracy, which Rawls puts forth, could be a relevant remedy for Turkey. A consensus on a more equal distribution of wealth and also income can form the basis of the citizens' perception of justice, which is important for having a social contract in Turkey.

In this regard, a possible overlapping consensus on social justice in Turkey might rely upon the already existing values within the Turkish state structure such as the 'social state' mentioned in the Constitution. That is to say, an overlapping consensus on social justice in Turkey could possibly stem from and reflect the deeply seated values of Turkish political culture. The next chapter discusses 'social justice' in Turkey and the possibility of forming an overlapping consensus on this issue.

¹⁸⁵ See chapter 5 and 8.

¹⁸⁶ This is a major criticism of the Gini coefficient, that it only measures distribution of income and not distribution of wealth, which in practice creates most of the inequality in contemporary societies.

CHAPTER 5

THE POSSIBILITY OF AN OVERLAPPING CONSENSUS ON THE ISSUE OF SOCIAL JUSTICE IN TURKEY

*“Justice is the first virtue of social institutions,
as truth is of systems of thought”*

John Rawls, *A Theory of Justice*, p.3

5.1 The Issue of Social Justice

Social justice can be defined as the condition or quality of a social structure by virtue of which all individuals have a certain level of minimum welfare and in which wealth is distributed in a just and fair way.¹⁸⁷ On the other hand, social justice is sometimes also defined in a broader sense that would imply the existence of justice among various groups in social life.¹⁸⁸ Although this broader approach is a legitimate one, emphasis will be given to the economic dimension of social justice in Turkey within this chapter; and the social dimension of social justice in Turkey such as freedom of conscience or ethnic equality will be dealt in Chapter 6 and Chapter 7.

¹⁸⁷ Özdemir, Süleyman. 2004. *Küreselleşme Sürecinde Refah Devleti* (The Welfare State During the Globalization Process), Istanbul: Istanbul Ticaret Odası, p.82.

¹⁸⁸ See Adams, Maurianne. 1997. *Teaching for Diversity and Social Justice: A Sourcebook*. New York: Routledge.

It is a fact that there are different and competing conceptions of social justice in today's modern societies ranging from socialism to social liberalism, each of which suggests different conceptions to provide 'social justice.' Rawls' 'justice as fairness' is one of these conceptions of social justice, and Rawls' conception offers valuable insights into discussions on social justice in Turkey. It can be argued that realizing social justice in Turkey is one of the most critical endeavors to consolidate Turkish democracy. Considering the fact that Turkey today, despite a relative improvement in recent years, suffers from an unjust distribution of wealth and income, it is critically important to reflect upon social justice, and make it the subject of public political discussions in Turkey. In this regard, I have proposed Rawls' property-owning democracy as a way to secure social justice in Turkey, which is covered in the last part of this chapter.

A fact to be emphasized about social justice in Turkey is that Turkish people have a widespread culture of 'charity,' yet a public and rights-based notion of social justice with reference to 'reciprocity' is still not much developed in this country. Therefore, it is important to defend social justice as a 'political' rather than a merely 'ethical' issue or a matter of charity. Such a political defense might proceed with reference to the fact that social state is an important dimension of this country's public culture and part of the citizens' considered judgments about justice.

Concerning the relation between social justice and democracy, it can be argued that, a working and consolidated democracy can only be founded when and where citizens have the necessary means and capabilities to participate in the polity as full citizens. It is a fact that under conditions of economic deprivation, citizens simply would not have the chances to sustain themselves or their families, and they simply would not

be able to influence society or politics at large. In this regard, possession of a decent level of capital and productive assets are absolutely necessary. Access to basic services such as health, education, accommodation, and the like are quite critical. Without these assets and services, neither life sustenance nor active citizenship would be possible. The disadvantaged members of most societies in the world today practically lack the basic means for being active citizens at either the national or the global level.¹⁸⁹ They cannot easily articulate or voice their discontent about their life conditions at the public level, and this leads to high levels of suffering and alienation for these people.

In recent times of neo-liberal policies at the global level, the lot of the lower classes out of the national income in most countries is shrinking and the distribution of wealth is getting worse in many parts of the world.¹⁹⁰ Due to the diversification and scattering of the working class and the relative weakening of the trade unions, it is becoming increasingly more difficult to secure a just economic structure in most countries, including Turkey. Cheap labor, flexible waging, and unstable employment continuously worsen the economic conditions of the disadvantaged people all around the world, and it is becoming more and more difficult for labor unions to influence the national policies due to the fact that they are primarily determined by the global economic institutions and the transnational companies.¹⁹¹

Two or three decades ago the national governments were more responsive to the popular expectations and labor unions. However, following the further globalization of the world economy by the mid-1970s, the actors of the global economy have become much more autonomous in their choices *vis-a-vis* the national governments and the labor

¹⁸⁹ Pogge, Thomas. 2002. *World Poverty*. Cambridge: Polity Press.

¹⁹⁰ Koray, Meryem. 2005. *Sosyal Politika* (Social Policy), Ankara: Imge, p.13-18.

¹⁹¹ *Ibid.*, p.14-15.

movements.¹⁹² This has particularly caused many problems, such as a high level of insecurity for the working class and the lower classes that live on limited resources and insufficient social security services.¹⁹³

It is reported that today a significant portion of the world's population still lives on \$1 or less per day without having sufficient food, clean water or health care. It is today a fact that most of the Third World is without any social safety net provided by the state, and it is a fact that "the family and community are the only providers of social welfare in the Third World."¹⁹⁴

The condition of the Turkish society at large is not immune from the global conditions. A 1987 survey identified 52.4% of the Turkish population to be living on 4,30 \$ per day or less, and 15.9 % living on 2.15 \$ or less.¹⁹⁵ The latest survey in 2000 found that 39.1% lived on \$ 4.30 per day and 10.3 % lived on 2.15 per day (World Bank 2005).¹⁹⁶ It is also noted that the 20% percentile of the Turkish population that makes 13.925.731 people live on \$2.5 or less.¹⁹⁷ In 2002 Euro-stat reported that 25% of the population in Turkey lives in relative poverty, below the "risk-of-poverty threshold set at 60% of the national median equalized disposable income (after social transfers)."¹⁹⁸

Under such unfavorable conditions regarding economic justice, it is becoming particularly important today, in ethical and political terms, to defend the rights and liberties of the social groups who are relatively disadvantaged on the social ladder. In order to make things better for these people, it is particularly important that the global

¹⁹² Koray, Meryem. 2005. *Sosyal Politika* (Social Policy), Ankara: Imge, p.14-15.

¹⁹³ It is mostly noted that while globalization influences the qualified and the white-collar labor in positive ways, it influences the unqualified labor negatively.

¹⁹⁴ Chatterjee, Pranab. 1999. *Repackaging the Welfare State*, Washington DC: Nasw Press, p.3.

¹⁹⁵ <http://www.worldbank.org> (Turkey World Bank Reports, 1987).

¹⁹⁶ <http://www.worldbank.org> (Turkey World Bank Reports, 2005).

¹⁹⁷ Koray, Meryem. 2005. *Sosyal Politika* (Social Policy), Ankara: Imge, p.360.

¹⁹⁸ http://www.euro.who.int/eprise/main/who/progs/chhtur/demographic/20050131_1 - 36k

agents, international organizations, civil society, and labor unions act in a concerted and solidarist manner and thus have the best of their chances to influence the economic policies at the global and domestic levels.

In the next section, Rawls' distributive justice, which proposes justice at the national and global level is discussed.

5.2 Rawls' Distributive Justice: Justice as Fairness

Rawls argues that people who are under the "veil of ignorance" would not know their background or life conditions, whether they come from a wealthy family or a poor family, whether they would have more talents or less talents, etc. Rawls argues that under such conditions, persons would come out with two principles of justice. His justice as fairness relies on these two principles of justice that follow as:

a-) Each person has the same inalienable claim to a fully adequate scheme of basic liberties, which scheme is compatible with the same scheme of liberties for all; and

b-) Social and economic inequalities are to satisfy two conditions:

b1- they are to be attached to positions and offices open to all under conditions of fair equality of opportunity; and

b2- they are to be to the greatest benefit of the least advantaged members of society ('the difference principle').¹⁹⁹

Rawls maintains that a social system needs to meet these two criteria in order to be considered as a just system. In *Justice as Fairness: A Restatement*, Rawls sorts out five kinds of regime types as social systems. These are:

¹⁹⁹ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, pp.42-43.

- a-) Laissez-faire capitalism
- b-) Welfare-state capitalism
- c-) State socialism with a command economy
- d-) Property-owning democracy
- e-) Liberal (democratic) socialism²⁰⁰

Rawls argues that the first three kinds of regimes “violate the two principles of justice”²⁰¹. He says that only property-owning democracy and liberal (democratic) socialism (i.e. market socialism) can possibly meet the two principles of justice. Rawls rules out the first three alternatives on the following grounds. Regarding laissez-faire capitalism he says:

a-) Laissez-faire capitalism (the system of natural liberty) secures only formal equality and rejects both the fair value of the equal political liberties and fair equality of opportunity. It aims for economic efficiency and growth constrained only by a rather low social minimum.²⁰²

Regarding welfare state capitalism, with which most authors wrongly associate Rawls with, Rawls puts forth the following evaluation:

b-) Welfare state capitalism also rejects the fair value of the political liberties, and while it has some concern for equality of opportunity, the policies necessary to achieve that are not followed. It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of the political life rests in few hands. And although, as the name “welfare-state capitalism” suggests, welfare provisions may be quite generous and guarantee a decent social minimum covering the basic needs, a principle of reciprocity to regulate economic and social inequalities is not recognized.²⁰³

As for state socialism, Rawls states his reservations as such:

²⁰⁰ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, p.136.

²⁰¹ Ibid., p.137.

²⁰² Ibid., pp.138-139.

²⁰³ Ibid., p.138.

c-) State socialism with a command economy supervised by a one-party regime violates the equal basic rights and liberties, not to mention the fair value of these liberties. A command economy is one that is guided by a general economic plan adopted from the center and makes relatively little use of democratic procedures or of markets (except as rationing devices).²⁰⁴

Ruling out the first three alternatives as unjust, Rawls says that the remaining alternatives are only (d) and (e), property-owning democracy and liberal (market) socialism, which he claims satisfy the two principles of justice.”²⁰⁵ He puts these two as possible alternatives arguing that “both a property-owning democracy and a liberal socialist regime set up a constitutional framework for democratic politics, guarantee the basic liberties with the fair value of the political liberties and fair equality of opportunity, and regulate economic and social inequalities by a principle of *mutuality*, if not by the difference principle.”²⁰⁶

Rawls makes distinctions between a socialist command economy and a liberal socialist economy on the one hand; and welfare-state capitalism and property-owning democracy on the other. He notes that under liberal (democratic) socialism, the means of production are owned by society, and political and economic power is shared among democratic political parties and firms.²⁰⁷ Rawls, comparing and contrasting a command economy with a liberal socialist economy, states that, in contrast with a command economy, firms under liberal socialism would “carry on their activities within a system of

²⁰⁴ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, pp.137-138.

²⁰⁵ Ibid., p.138.

²⁰⁶ Ibid.

²⁰⁷ Rawls, following J.S. Mill, in relation to democracy within firms, notes that firms could possibly be managed by the workforce (Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, p.178.)

free and workably competitive markets, [and] free choice of occupation [would be] assured.”²⁰⁸

Before explaining how Rawls distinguishes between a welfare-state capitalism and a property-owning democracy, first is explained what property-owning democracy implies. This term was first used by British economist James Meade in his important work *Efficiency, Equality, and the Ownership of Property*.²⁰⁹ In a property-owning democracy, Rawls suggests that a widespread ownership of productive assets and human capital would be ensured. This would be done by trying out different kinds of property ownership and progressive taxation and property ownership would be pooled through insurance firms, investment trusts and the like, so that each citizen receives a part of his or her income from property.²¹⁰ Rawls elaborates the basic institutions of a property-owning democracy as the following:

- i-) Provisions for securing the fair value of the political liberties,
- ii-) Provisions for realizing fair equality of opportunity in education and training,
- iii-) A basic level of health care provided for all.²¹¹

Rawls distinguishes a property-owning democracy in some important ways from a welfare-state capitalism. Noting that both of them allow private property, he says that they are different in some critical ways. He puts forth the major differences between the two systems as such:

²⁰⁸ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, p.138.

²⁰⁹ Meade, James. 1993. *Efficiency, Equality, and the Ownership of Property*, New York: New York University Press.

²¹⁰ Amit Ron. 2005. “Visions of Democracy in ‘Property-Ownning Democracy:’ Skelton to Rawls and Beyond,” paper delivered at the Annual Meeting of the American Political Science Association, (September 1-4, 2005), p.15.

²¹¹ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, p. 176.

The background institutions of property-owning democracy work to disperse the ownership of wealth and capital, and thus to prevent a small part of society from controlling the economy, and indirectly political life as well. By contrast, welfare-state capitalism permits a small class to have a near monopoly of the means of production.

Property-owning democracy avoids this, not by the redistribution of income to those with less at the end of each period, so to speak, but rather by ensuring the widespread ownership of productive assets and human capital (that is, education and trained skills) *at the beginning of each period*, all this against a fair background of fair equality of opportunity.²¹²

Having put the difference of mentality as such between the two systems, Rawls notes that there exists a critical difference in the underlying intention of the two systems. In a property-owning democracy the intent, as Rawls put, is not

simply to assist those who lose out through accident or misfortune (although that must be done), but rather to put all citizens in a position to manage their own affairs on a footing of a suitable degree of social and economic equality.²¹³

In terms of distribution policies, it is noted that whereas policies under a property-owning democracy involve “altering the underlying *ex ante* distribution of property and marketable skills rather than simply accepting these as given and undertaking only *ex post* income distribution through the welfare system.”²¹⁴ Rawls elaborates this difference noting that the two systems have difference in their basic aims:

In welfare state capitalism the aim is that none should fall below a decent minimum standard of life, one in which their basic needs are met, and all should receive certain protections against accident and misfortune, for example unemployment compensation and medical care. The redistribution of income serves this purpose when, *at the end of each period*, those who need assistance can be identified. Yet given the lack of background justice and inequalities in

²¹² Ibid., p.139. Emphasis mine.

²¹³ Ibid., p.139.

²¹⁴ Jackson, Ben. 2005. “Revisionism Reconsidered: ‘Property-owning Democracy’ and Egalitarian Strategy in Post-War Britain,” *Twentieth Century British History* 16(4), pp.416-420.

income and wealth, there may develop a discouraged and depressed underclass many of whose members are chronically dependent on welfare. This underclass feels left out and does not participate in the public political culture.²¹⁵

Respect, reciprocity and equality among the citizens, Rawls asserts, are very important issues in a democratic regime. In what way the state views the citizens, and how the citizens view one another all have important political implications. There are some important differences in this regard between a welfare state and a property-owning democracy. While a welfare-state simply “helps” the disadvantaged people out of “human sympathy” or “compassion,” it does not honor the full equality and reciprocity between the citizens, whereas a property-owning democracy, Rawls says is sensitive to providing conditions of equality, reciprocity and self-respect to all citizens as much as possible. He differentiates between a one-sided help of the state through compassion versus a rights-based reciprocity among citizens:

The least advantaged are not, if all goes well, the unfortunate and unlucky—objects of our charity and compassion, much less our pity—but those to whom reciprocity is owed as a matter of political justice among those who are free and equal citizens along with everyone else. Although they control fewer resources, they are doing their full share on terms recognized by all as mutually advantageous and consistent with everyone’s *self-respect*.²¹⁶

Rawls states that the aim of a property-owning democracy is to “realize in the basic institutions the idea of society as a fair system of cooperation between citizens regarded as free and equal.”²¹⁷ In order to be able to realize this goal over generations, Rawls argues that the basic institutions in the society must “from the outset, put in the hands of

²¹⁵ Rawls, John. 2001. *Justice as Fairness— A Restatement* (ed. by Erin Kelly). Cambridge: The Belknap Press of Harvard University Press, p 140. Emphasis mine.

²¹⁶ Ibid., p.137.

²¹⁷ Rawls, John (1985) “Justice as Fairness: Political not Metaphysical,” *Philosophy and Public Affairs*, 14(3), p.234.

citizens generally, and not only a few, sufficient productive means for them to be fully cooperating members of society on a footing of equality.”²¹⁸

Overall, it can be argued that the economic views of Rawls, which he expresses in his latest book *Justice as Fairness, A Restatement*, is close to a strong version of social democracy, for he aims for widespread property-owning among the population.²¹⁹ Although Rawls proposes property-owning democracy as a possible regime type for nation states, a global and cosmopolitan view would require extending property-owning democracy to the global order.

5.3 The Turkish Economy and the Issue of Social Justice in Turkey

The Turkish economy in the last few decades significantly grew, and Turkey today has one of the largest economies in the world in terms of total GDP.²²⁰ Although per capita income has increased in recent years, there is still a significant gap between the richest 20% and the poorest 20% in Turkey.²²¹ The GNP per capita of Turkey has recently risen to \$9.333 in 2007, however the distribution of this ‘average’ income among the population is still quite uneven. According to UN statistics, the proportion of the income

²¹⁸ Rawls, John. 1999. *A Theory of Justice*. Oxford: Oxford University Press, p.xv.

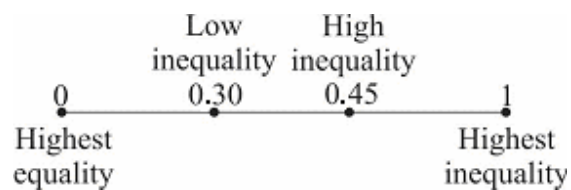
²¹⁹ A crucial point that needs to be noted here is that whereas the early Rawls seemed more moderate in terms of economic policy (at least that was how he was perceived by most people), his latest book *Justice as Fairness—A Restatement* is more radical and egalitarian than his previous books, and in terms of policy implications it is close to (a strong version of) social democracy. Yet, it should be noted that Rawls diverges from social democracy’s collectivism by his individualism and emphasis on individual liberties and autonomy. One can argue that while Rawls, in terms of economy, is close to social democracy, he is close to social liberalism regarding individual and political liberties.

²²⁰ Turkey is the 17th largest economy of the world in year 2007, see <http://www.worldbank.org/web.worldbank.org/.../0,,contentMDK:20421402~pagePK:64133150~piPK:64133175~theSitePK:239419,00.html>.

²²¹ ec.europa.eu/enlargement/turkey/economic_profile_en.htm.

of the richest 10% to the 10% poorest in Turkey by year 2005 was 16.8 and the proportion of the richest 20% to the poorest 20% was 9.3.²²²

The Gini coefficient, which measures distribution of income, is reported to be 0.38 for Turkey in 2005. (Technically, a ‘gini coefficient’ at the level of 0.0 (zero) represents “perfect equality”, whereas 1.0 (one) represents perfect inequality.) Turkey’s Gini coefficient in 2002 was reported to be 0.44 by the UN; it decreased to 0.38 in 2005.²²³ Thus there was relative improvement between 2002-2005 in terms of wealth distribution; however, Turkey’s Gini coefficient is still relatively high when compared to some European states, especially the social democratic ones such as Sweden and Denmark. It is generally thought that a Gini index around 0.25-0.30 denotes a relatively ‘just’ level, whereas a Gini coefficient greater than 0.30 denotes increasing levels of ‘injustice’ regarding income distribution. Comparatively speaking, when relying on the Gini indexes of various countries, Turkey is not as unjust as Bolivia (0.60), Brazil (0.57), South Africa (0.57), or Zimbabwe (0.50); on the other hand, Turkey is not as just as Denmark (0.24), Sweden (0.25), the Czech Republic (0.25), or Germany (0.28).²²⁴



Below is shown Turkey’s Gini coefficient in recent years.

²²² hdrstats.undp.org/countries/data_sheets/cty_ds_TUR.html.

²²³ <http://www.morganstanley.com/views/gef/archive/2007/20070712-Thu.html>.

²²⁴ Undp.org, *Human Development Report, 2007-2008*.

Year	Gini coeff.
1987	0.44
1994	0.49
2002	0.43
2004	0.40
2005	0.38

Table 1: Turkey's Gini coefficient during 1987-2005 ²²⁵

According to the above table, it can be observed that there is relative amelioration in recent years; however, Turkey still suffers from a middle level, if not a high level, of income inequality. The distribution of wealth, which is technically different from distribution of income, is probably in a worse condition in Turkey.

Besides the distribution of income among individuals, it should also be mentioned that there is also a regional disparity in terms of distribution of income.

Region	Household Rate (%)	Income Rate (%)
Aegean-Marmara	42.3	52.5
Mediterranean	12.5	11.0
Interior Anatolia	7.9	15.4
Black Sea	12.8	10.9
East Anatolia	14.5	10.2

Table 2: Income Distribution according to Regions of Turkey (1994) ²²⁶

It can be seen in the above table that Aegean, Marmara, and Interior Anatolia receive more wealth in comparison to their population, whereas Mediterranean, Black Sea, and East Anatolia receive less wealth in comparison to their relative population. It can be

²²⁵ <http://www.tuik.gov.tr>.

²²⁶ Kongar, Emre. 2002. *Turkey in the 21st Century, Social Structure of Turkey in the New Millenium*. Istanbul: Remzi, pp.609-693, accessed at http://www.anovasofie.net/vl/countries/turkey/docs/01/tur_01_01_social.pdf (p.34).

seen that among the regions, the worst off region is the East Anatolia (this issue is mentioned in Chapter 7).

It can be argued that a relatively high economic gap between the regions in Turkey as well as the rich and poor individuals in Turkey create problems in terms of democratic citizenship and a possible democratic consolidation in this country. It should be acknowledged that most wealth and capital is owned by a relatively small minority in Turkey, which leads to a very disproportionate distribution of power in society. Those who have more resources can influence and manipulate the social and democratic processes in unjust and undemocratic ways (especially through mass media).

It seems that the only way an egalitarian and substantially democratic citizenship can possibly be secured, would be through a better and much more widespread ownership of property and capital. Such widespread ownership is getting much more difficult under conditions of neo-liberalism; some might even argue it is becoming more utopian. However, defenders of economic egalitarianism today have no other choice but to put all their efforts into a more just distribution of the means of production and capital (real and human capital) in order to create a more humane and democratic society. In this regard, Rawls' notions of 'justice as fairness' and 'property-owning democracy' are crucial in terms of securing the popular basis of democracy, globally and nationally.

The next section is devoted to a discussion of how Rawls' justice as fairness can be relevant to the Turkish economy and the formation of an overlapping consensus in this country on the issue of social justice.

5.4 Justice as Fairness and Turkish Democracy

It can be argued that Rawls' distributive justice has much relevance to Turkey and Turkish democracy. Rawls' theoretical devices of representation, such as the veil of ignorance and the two principles of justice have strong moral and political relevance for Turkey, which, as a country, suffers from an unjust distribution of wealth. In this regard, Rawls' theoretical devices can be useful to reflect upon social justice in Turkey, as well as thinking about a possible social contract in Turkey. It can be argued that the Turkish public culture is not devoid of resources that would make Rawlsian justice comprehensible and appealing to Turkish citizens. Especially the considered judgments of Turkish citizens on social justice and social state can be crucial references.²²⁷

As to the recent situation of the 'social state' in Turkey, it should be noted that the social state and public social expenditure is generally on decline in Turkey when compared to past decades, which can be seen in the table below.

1975	22,90%
1980	17.83
1985	13.57
1990	25.25
1995	13.98
2000	12.32
2001	13.40

*Table 3: Public Social Expenditure in Turkey and Its Relative Share in the Consolidated Budget*²²⁸

It is noted by Özdemir (2001) that although public social expenditure is increasing in many countries, especially continental Europe, it decreased approximately 10 percent

²²⁷ 'Social state' is mentioned in the Turkish Constitution.

²²⁸ Özdemir, Süleyman. 2004. *Küreselleşme Sürecinde Refah Devleti* (The Welfare State During the Globalization Process), Istanbul: Istanbul Ticaret Odası, p.347.

during 1975-2001 in Turkey, which is problematic in terms of the condition of the social state in Turkey. A general fact that needs to be acknowledged is that the state in Turkey has never actually been a fully developed 'social state' in the western sense; however, it has come to compensate, if only partially, the disadvantaged people's economic and social conditions up to recent years. Having been influenced by the global trends of minimizing the state and cutting the public expenditures, the social state is becoming minimized in Turkey. Nowadays, it is observed that family, civil society, and municipalities are carrying out certain charity activities. However, it should be noted that charity and causal aids cannot substitute a rights-based and reciprocal notion of welfare for all citizens based on republican equality.

As to the possible sources of an overlapping consensus on social justice in Turkey, one can argue that an overlapping consensus on social justice in Turkey can be grounded on the already existing values of the Turkish citizens concerning republican equality, social justice, and social state. The political parties and groups in Turkey can refer and appeal to these embedded values in order to form an overlapping consensus on social justice in Turkey.

In relation to the issue of welfare state versus property-owning democracy, it can be argued that a property-owning democracy would be more egalitarian than a welfare state. However, one can see that Turkey has not been able to erect even a full welfare state yet. Therefore, from a realistic point of view, certain welfare programs might be initially and temporarily welcome towards a more egalitarian and property-owning democracy in Turkey. Policies for a more property-owning democracy such as progressive taxation, founding new cooperatives, investment trusts and the like need to be

made more prevalent everywhere in order to gradually strengthen the basis of property-ownership in Turkey, which can increase the legitimacy of the democracy in Turkey in the eyes of the citizens and serve to the democratic consolidation in Turkey.

The next chapter discusses another very crucial issue in contemporary Turkey, which is the issue of secularism and a possible overlapping consensus on this issue.

CHAPTER 6

THE POSSIBILITY OF AN OVERLAPPING CONSENSUS ON THE ISSUE OF SECULARISM IN TURKEY

“How is it possible that there can be a stable and just society whose free and equal citizens are deeply divided by conflicting and even incommensurable religious, philosophical, and moral doctrines?”

John Rawls,
Political Liberalism, p.133

6.1 Historical Background of the Secularism Issue in Turkey

Secularism is one of the most controversial and sensitive issues in Turkish politics, and there is a lot of tension around this issue. The roots of the tension can be found in the fact that the Ottoman Empire, which was the predecessor of the Turkish Republic, was a state based on religion and that the political elite in Turkey have a fear of returning to what they perceive as theocracy.

The Turkish Republic, which was founded after the demise of the Ottoman Empire, has produced a discourse that suggests a rupture from the former regime. This discourse situated the Ottoman State Empire as the categorical ‘other’ and has seen all references to Islam as a potential reference to the ancient regime. This is why today religion is a politically thorny and sensitive issue in Turkey. Religion in Turkey is never

seen only as a cultural or religious issue, but a potentially political issue. That is why otherwise a simple issue such as the headscarf issue turns into symbolic warfare amongst cultural camps that have opposing views on the role of religion in society and state.

The political rivalry and conflict in today's Turkey is between secularists and religious conservatives. While the religious conservatives favor a more direct role for religion in the state-society relations, most secularists, following the positivist legacy, see religion as an old-fashioned institution that is to be surpassed by modernity. The conflict between tradition and modernity can be observed as the underlying problematic behind the daily debates on the issue of secularism in contemporary Turkey.

Despite the fact that the Turkish Republic defined the Ottoman Empire as reactionary, it did not hesitate to continue certain features of the Ottoman system such as promoting a state-controlled religion. In order to better understand the continuities and ruptures, it is necessary to examine the relations between state and religion in the Ottoman State.

The Ottoman State was a Sunni state. That is to say, Sunni Islam was the official religion of the state, and the jurisprudence was practiced with reference to Islamic law (*sharia*) and the Şeyhülislam (head of the judiciary) had the jurisdiction over the courts in the Ottoman State structure and had the authority over the application of Islamic law (*sharia*)²²⁹ as well as the juridical supervision and approval of sultan's policies through *fetwas* (legal interpretation).²³⁰

All these being technically true, however, from a broader and political perspective, it needs to be noted that the office of the Şeyhülislam was under the control

²²⁹ Ergil, Doğu. 1988. *Secularism in Turkey, Past and Present*. Ankara: Foreign Policy Institute, p.5.

²³⁰ Daver, Bülent. 1955. *Türkiye Cumhuriyetinde Lâiklik*. Ankara: Son Havadis Matbaası, p.26.

of the Sultan, and did not have much autonomy. The Ottoman sultans had the power to remove the Şeyhülislam from his post if the Seyhulislam had a major disagreement with the Sultan and his policies.

It could be argued that the religious authority in the Ottoman Empire was state-controlled and did not have autonomous power to challenge the secular authority. In this regard, it is argued by Erdoğan (1996) that the Ottoman State was a “caesaro-papist” state.²³¹ Another practical issue that had resemblance with secularism was that Sultans had a right to make secular laws when it was necessary (*Örf-i Sultani*, sovereign prerogatives).²³² Daver pointed out that in certain periods there existed some laws in the penal code and inheritance laws in the Ottoman Empire that were against the basic principles of Islamic law.²³³

It is argued by Karpāt that the structure of the Ottoman State was generally conducive to the development of secularism over the centuries.²³⁴ It should be noted that, despite the general superiority of Islam within the Ottoman Empire, there was a pluralist system of jurisprudence within the Ottoman State. While the Muslims were subject to the rules of the Islamic Sharia, the Jews and Christians were subject to their own religious and communal laws. This communal system based on religious creed was called the “millet” system, and it continued up until the collapse of the Ottoman Empire.²³⁵

²³¹ See Erdoğan Mustafa. 1996. *Anayasal Demokrasi*. Ankara: Siyasal Kitabevi. Daver calls the system in states that control religion as *Cesarisme*, as in the Byzantine Empire (Daver, Bülent. 1955. *Türkiye Cumhuriyetinde Lâyetlik*. Ankara: Son Havadis Matbaası, p.56.) It should be acknowledged that the Ottoman State did allow a high level of space for religion in the state-society relations than the Republic, however it would be dubious to call the Ottoman State strictly ‘theocratic.’

²³² Daver, Bülent. 1955. *Türkiye Cumhuriyetinde Lâyetlik*. Ankara: Son Havadis Matbaası, p.28.

²³³ Ibid., p.30.

²³⁴ See Neşe Nüzal’s interview with Kemal Karpāt in the *Radikal* daily on October 8, 2007, <http://www.radikal.com.tr/haber.php?haberno=235067>.

²³⁵ The millet system officially ended in 1926 (three years after the foundation of the Turkish Republic). See <http://www.allaboutturkey.com/reform.htm>.

Despite the relative autonomy of the state *vis-à-vis* the religious authority, Islam as a religion was quite influential in the daily lives of the Ottomans and it retained its justificatory power for many centuries. However, the rise of the West and modernity caused changes in the relative power of tradition and religion within the Ottoman Empire.

As the West gained superiority over the Ottomans in the wars after the 17th and 18th century, the Ottomans started to modernize their army, bureaucracy, and education system. Within time, the reforms started to permeate the social and cultural life as well, which ended up by further secularization, especially among the elites.²³⁶

Following the 1839 Tanzimat (Re-organization) Decree, the reforms became more and more comprehensive and they started to significantly change the political and social structure of the Ottoman Empire. During the Tanzimat period (1839-1876), the courts as well as the schools within the Ottoman State became dualist in nature, that is to say some continued the traditional and religion-based system while others functioned in a secular way.²³⁷

The duality between religious and secular institutions came to an end in favor of secularism in the Kemalist era, during which Mustafa Kemal Atatürk, the founder of the Turkish Republic, put radical secularist reforms into practice. The table below shows a chronology of Atatürk's secularist reforms during 1922-1938.²³⁸

²³⁶ See Berkes, Niyazi. 1984. *Teokrasi ve Laiklik*. Istanbul: Adam, pp.29-43; see also Part I in Zürcher, Erik Jan. 2007. *Turkey: A Modern History*. London: I.B. Tauris.

²³⁷ For the duality in education and courts see Berkes Niyazi (1984) *Teokrasi ve Laiklik* (Istanbul: Adam), p.40-56. For the duality in the courts, see Daver, Bülent. 1955. *Türkiye Cumhuriyetinde Lâyetlik*. Ankara: Son Havadis Matbaası, pp.36-37.

²³⁸ The table is taken from <http://countrystudies.us/turkey/14.htm>.

Year	Secularist Reforms in Turkey during 1923-1938
1922	Sultanate abolished (November 1).
1923	Treaty of Lausanne (July 24). Republic of Turkey with capital at Ankara proclaimed (October 29).
1924	Caliphate abolished (March 3). Traditional religious schools closed, <i>sharia</i> courts abolished. Constitution adopted (April 20).
1925	Dervish brotherhoods outlawed. Fez outlawed by the Hat Law (November 25). Veiling of women discouraged; Western clothing for men and women encouraged. Western (Gregorian) calendar adopted.
1926	New civil, commercial, and penal codes based on European models adopted. New civil code ended Islamic polygamy and divorce by renunciation and introduced civil marriage. <i>Millet</i> system ended.
1928	New Turkish alphabet (modified Latin form) adopted. Constitutional provision establishing Islam as official religion deleted.
1933	Islamic call to worship and public readings of the Quran required to be in Turkish rather than Arabic.
1934	Women given the vote and the right to be elected to Parliament Law of Surnames adopted.
1935	Sunday adopted as legal weekly holiday.
1937	State declared secular (April 10)

The above-mentioned reforms in the 1920s and 1930s caused some popular discontent among the religious periphery, which launched some religious rebellions such as the Sheikh Said Rebellion and the Menemen Rebellion.²³⁹ However, the periphery's reaction to radical secularization reforms were mostly silent and the religious discontent of the periphery was not represented at a political level up until Turkey made a transition to multi-party politics in 1946.

²³⁹ Sheikh Said Rebellion was instigated by Sheik Said during 1925-1926, and Menemen Rebellion was instigated in 23 December 1930 by Derviş Mehmet, a dispossessed religious figure (Ergil, Doğu. 1988. *Secularism in Turkey, Past and Present*. Ankara: Foreign Policy Institute, p.64.)

After 1946, the DP (Democratic Party) as the opposition party to the CHP (Republican People's Party) started to voice the popular discontent of the periphery on religious issues and sided with a more permissive version of secularism. Some religious groups such as the Nakşibendis, Nurus, and Süleymanîs increased their visibility in this period, and they supported the DP and were content with the more tolerant version of secularism that the DP represented, as opposed to the RPP's more radical version of secularism.²⁴⁰

The 1960s and 1970s witnessed the rise of a distinctive Islamist movement in Turkey. During the 1960s and 1970s, when the polarization between the political right and left was in its height, the religious right distinguished itself from conservative right-wing parties such as the AP and emerged as an independent and radical political movement through MNP (*Millî Nizam Partisi*, National Order Party).

The MNP was founded in 1969 by Necmettin Erbakan, an Islamist engineer. The MNP under Erbakan's leadership tried to play, as much as possible, within the rules of the secular system in order not to be banned. However, the political elite were not content with this party's radicalizing discourse, and as a result in 1971, the Constitutional Court closed down this party for carrying out anti-secular activities. Soon, this party was replaced by the MSP (*Millî Selamet Partisi*, National Salvation Party).

The grassroots of the MSP, like that of the MNP, were provincial shopkeepers, merchants, workers, and traditionalist people in the periphery who were mainly excluded from decision making mechanisms.²⁴¹ The ideological discourse of the MSP revolved

²⁴⁰ Zubaida, Sami. 2000. "Trajectories of Political Islam: Egypt, Iran and Turkey," in *Religion and Democracy* (eds. David Marquand and Ronald L. Nettle). Oxford: Blackwell Publishers, p.72.

²⁴¹ Birol Akgün. 2002. "Twins or Enemies: Comparing Nationalist and Islamist Traditions in Turkish Politics," *Middle East Review of International Affairs* 6(1), p.19.

around issues such as moral and Islamic values, social justice, anti-imperialism, and anti-Westernism. This party joined a few times in the coalition governments during the 1970s, however after the 1980 coup, this party, together with other political parties, were closed down.

The 1980 coup d'état caused radical socio-political changes in the country. The generals of the coup favored people's socialization into Turkish nationalism and a moderate form of Islam as an anti-dote to radical left. Their support of a peculiar synthesis between Turkish nationalism and Islam has been since called 'Turkish-Islamic synthesis.'²⁴² During the 1980s which were the heydays of the Turkish-Islam synthesis, many mosques, Quran courses, and religious centers were opened by civil society in Turkey.

The economic and social policies of Turgut Özal as the prime minister during 1983-1991, strengthened the basis of religiously oriented capital and led to the emergence of a religious middle class. During the 1990s, the power basis of religious groups and the RP (Welfare Party) continued to increase. In the 1995 election, the RP, to the surprise of many, received 21.4% of the votes and became the ruling party with its coalition partner, the DYP (*Doğru Yol Partisi*: True Path Party).

The RP's rise to power was perceived as a threat by the Turkish military and the secularist parties. As RP continued to carry out religiously oriented policies in the public arena, the military launched a memorandum to this party during the monthly NSC (National Security Council) meeting on February 28, 1997.²⁴³

²⁴² The Turkish Islamic synthesis has been intellectually supported by the Aydınlar Ocağı (Hearth of Intellectuals).

²⁴³ For the details of the 28 February process see Howe, Marvine. 2000. *Turkey Today, A Nation Divided over Islam's Revival*. Oxford: Westview Press, pp.134-147.

The NSC put the government in a position to observe a list of reforms such as the 8-year primary education (which was 5 years before), as well as some other social and political reforms, most of which pertained to the issue of secularism. It could be argued that this memorandum was put forth by the military as a precaution, in their view, to stop the Islamization of the state and society. Some secularist civil society organizations, trade unions, and newspapers supported the 28 February process, while more conservative and liberal organizations protested it.

The military forced Erbakan either to implement the reforms or resign, and eventually Erbakan had to resign on June 30, 1997. Later, on January 1998, the Constitutional Court closed down the RP arguing that it violated the constitutional separation between state and religion.²⁴⁴ After this closure, the RP was replaced by FP (*Fazilet Partisi*: Virtue Party), being founded by the former RP members. However, this party, too, was closed down by the Constitutional Court for the same reasons that led to the closure of its predecessor, the RP.

The FP was soon replaced by two new parties, the SP (*Saadet Partisi*: Felicity Party) which appealed to the hardliners within the VP and which continued the Islamist discourses of Erbakan's *National Outlook* tradition, and on the other hand the AKP (*Adalet ve Kalkınma Partisi*: Justice and Development Party) which gave up the radicalism of *National Outlook* and instead became a conservative party leaning towards center-right following the path of the DP and ANAP.

The AKP was founded in 2001 under the leadership of Recep Tayyip Erdoğan. This party went through a comprehensive ideological change from Islamism to center-

²⁴⁴ Karakaş Cemal. 2007. *Turkey. Islam and Laicism Between the Interests of State, Politics and Society*, Peace Research Institute Frankfurt (PRIF), Germany, PRIF-Report No. 78/2007, p.27.

right conservatism, and won the 2002 election by receiving 34.2% of the votes. This unexpected success of the AKP, as the offshoot of an Islamist party, caused a lot of controversy among the public, as to whether this party still pursued political Islam like its predecessors, or had shifted to the center as it claims to have done.

Some argued that the AKP has sincerely and genuinely changed and turned into a more centrist party, while others kept a more skeptical attitude and argued that the AKP is still the inheritor of Erbakan's *National Outlook* and is therefore a threat to the secular foundations of Turkey. The skeptics considered the changing discourse of the AKP not as a real change of heart but as merely '*takiyye*,' implying that the AKP keeps a hidden (Islamist) agenda. The skeptics also argue that the AKP's interest in the EU is only instrumental and opportunistic.²⁴⁵

In response to such skeptical arguments, the AKP leadership stated that they have re-evaluated their position after the February 28 process and have adopted a new centrist-democratic outlook. Erdogan argued that they took lessons from the past and "took off the national outlook shirt" (read political Islam) and have become 'conservative democrats.'²⁴⁶ This claim was not devoid of empirical basis considering that the 34% votes the AKP received in the 2002 election came not only from religiously oriented voters but also from center-right and other centrist voters.²⁴⁷

²⁴⁵ The skeptics argued that the AKP's desire and motivation for EU, decreased after the ECHR (European Court of Human Rights) turned down the petition of some students wearing headscarf and found Turkey rightful on the turban ban; they implied that the AKP's interest in EU is limited to its expectation of more freedom for Islamic practices.

²⁴⁶ *Sabah* daily, 17.05.2003 (arsiv.sabah.com.tr/2003/05/17/s1916.html). See also Abdullah Gül's similar statements on this issue at <http://www.ntvmsnbc.com/news/132896.asp>.

²⁴⁷ For a discussion of the ideological transition of the AKP from Islamism to conservative democracy see Özbudun, Ergun. 2006. "From Political Islam to Conservative Democracy: The Case of the Justice and Development Party in Turkey," *South European Society & Politics*, 11(3-4), pp.543-557.

After the 2002 election, the AKP found itself in a position to clarify its ideology. In fact, it took quite some time for the AKP to do this. In January 2003, it was announced by Recep Tayyip Erdogan, in an international symposium on conservatism and democracy in Ankara, that the AKP is a “conservative democrat party.”²⁴⁸ The ideological parameters of AKP’s conservative democracy are theorized by a conservative academic, Yalçın Akdoğan.²⁴⁹

Conservative democracy provided the AKP a chance to present itself as a moderate and centrist party. In the next days, the AKP administration stressed it more and more in the public that the AKP is the party of all Turkish people and not only of a certain faction or a marginal outlook.²⁵⁰ This emphasis was made against the background of the Felicity Party, which continued the Islamist discourse after the February 28 process and blamed the AKP for betraying its religious origins and selling out the country to the IMF, EU, and the West.

The AKP, it seems, has not cared much about such criticisms coming from the SP and distanced itself more and more from Erbakan’s Islamist and anti-Western discourses, and has become more of a moderate conservative party with strong emphasis on the market economy and EU membership.

²⁴⁸ AK Parti, *International Symposium on Conservatism and Democracy (10-11 January 2004)*, Ankara: AK Parti Publication, p.2. (Emphasis mine). Erdoğan also argued “AKP’s conservatism is a modern conservatism that is open to innovation,” and that “conservatism as seen by the AKP is a way of preserving certain values and rights, rather than existing institutions and relationships” (AK Parti, *International Symposium on Conservatism and Democracy (10-11 January 2004)*, Ankara: AK Parti Publication, p.8.)

²⁴⁹ See Akdoğan, Yalçın. 2004. *AK Parti ve Muhafazakar Demokrasi* (AK Party and the Conservative Democracy). Istanbul: Alfa Yayınları.

²⁵⁰ Erdoğan expressed these ideas in his speech delivered from the balcony of his party’s main center after the 22 July 2007 election.

6.2 Two Basic Issues of Turkish Secularism: The Role of Religion in the State, and the Headscarf Issue

6.2.1 Surveys in Turkey on the Role of Religion in the State

In surveys, the proportion of the people in Turkey who prefer a government based on religion shows changes over the years. In the 1990s, the proportion of people favoring a government based on religion were significantly higher, however it relatively decreased in the 2000s. According to a survey done by TÜSES in 1996, 26.7% of the respondents preferred a government based on Islamic law (*sharia*), on the other hand, 58.1% were against a government based on *sharia*, and 15.2% were undecided or had no opinion. In a later survey done by the same research organization in 1998, pro-*sharia* respondents fell to 19.8%, while 59.9% were against and 20.2% were undecided or had no opinion. And in year 2002, the percentage of pro-*sharia* respondents was only 9.9%, while those against were 60.7%, and the undecided ones were 29.4%.²⁵¹ Concerning these numbers, Özbudun notes:

Interestingly, the sharp fall in the percentage of pro-*sharia* voters did not correspond to a similar rise among anti-*sharia* voters, but there was a substantial rise in the undecided/no opinion category. This may be due to the confusion resulting from the closure of the RP and FP by the Constitutional Court, and to the changing attitude of the AKP with regard to religion. Also it may be argued that not all pro-*sharia* voters may necessarily favor the literal application of all *sharia* rules.²⁵²

²⁵¹ TÜSES. 2002. *Türkiye’de Siyasi Partilerin Yandaş/Seçmen Profili* (Supporter/Voter Profiles of Political Parties). Istanbul: TÜSES, In Özbudun, Ergun. 2006. “Changes and Continuities in the Turkish Party System,” *Representation* 42(2), p.133.

²⁵² Özbudun, Ergun. 2006. “Changes and Continuities in the Turkish Party System,” *Representation* 42(2), p.133. See also Özbudun, Ergun. 2006. “From Political Islam to Conservative Democracy: The Case of the Justice and Development Party in Turkey,” *South European Society & Politics* 11(3-4), pp.543-557.

It should be noted that despite the relative decline of the proportion of people who want a religion-based state in Turkey in recent years, the proportion of people preferring a religion-based state along with undecided respondents is still high compared to the ratio of people who prefer a religion-based state in the consolidated Western democracies. In this regard, the AKP's role in including the religious conservatives to the democratic system is quite crucial. As much as the AKP becomes a center-leaning party and internalizes the tenets of secularism and democracy, the religious electorate voting for this party might have a chance to become increasingly more loyal to the democratic and secular regime. In this regard, it is crucial that Erdoğan in various occasions states that his party accepts secularism as a basic principle.

Concerning the relationship between state and religion, Erdogan states his party's position as such:

The AK Party attributes importance to religion as a social value, but does not consider conducting politics on the basis of religion, transforming the state from an ideological point of view or organizing the society on the basis of religious symbols as a right strategy.²⁵³

Concerning his party's attitude vis-à-vis believers of different religions, Erdoğan said:

The AK Party believes that an approach that distinguishes between "us and them" and that attributes supremacy to a single religious denomination, ethnic group or religious point of view, is discriminatory and exclusive. The AK Party defines "secularism" as an approach according to which the state is neutral towards all religions and thoughts and all faiths, denominations and perceptions can live in an atmosphere free of conflict. Secularity should be seen as a way of keeping the plurality of society within a peaceful and free environment, devoid of conflicts or tensions.²⁵⁴

²⁵³ AK Parti, *International Symposium on Conservatism and Democracy (10-11 January 2004)*, Ankara: AK Parti Publication, p.11.

²⁵⁴ *Ibid.*, p.10.

These statements denote a positive development for Turkish democracy taking into consideration the anti-secular attitude of Erdogan's predecessors (and himself during the RP period). Provided that Erdogan continues his emphasis on his party's full allegiance to secularism, there would no doubt be more space and hope for an overlapping consensus in Turkey on the issue of secularism.

An important point that should be emphasized is that the AKP, as the de-facto representative of the religious and conservative people in this country, is in a position to continue stating that they unconditionally reject fundamentalism or a religious-based state and fully adopt a secular state and constitution, in which they want to have basic freedoms including freedom of conscience.²⁵⁵ Such a continuous and un-ambiguous emphasis would be very critical to build a genuine dialogue between the secularists and the religiously oriented people in this country. As part of such a dialogic relationship, all allegations of 'takiyye' need to be put aside by either the CHP or other political organizations, since that would harm the inter-group trust that is necessary for building a consensus on the issues of secularism.

6.2.2 The Headscarf Issue

The headscarf issue is probably the most visible issue of secularism in Turkey and is one of the most divisive issues in Turkey being a symbolic area of conflict between secularists and the religious conservatives. The headscarf issue first appeared when some

²⁵⁵ In relation to secularism, it can be argued that the AKP is in a process of adopting secularism as a basic political principle, and it seems that the AKP is closer to having an Anglo-American notion of secularism rather than a French one (See AK Parti, *International Symposium on Conservatism and Democracy (10-11 January 2004)*, Ankara: AK Parti Publication.)

students with headscarves entered the Turkish universities in the early 1980s.²⁵⁶ YÖK (Council of Higher Education in Turkey) banned the use of the headscarf in the universities in 1987. However, in 1989, the ANAP passed a law that would enable the university students to wear the Islamic headscarf, which the Constitutional Court annulled arguing that it was against the principle of secularism.

Despite the official ban, there was relative freedom for the headscarf in the 1990s. However, starting from 2001, the headscarf ban has started to be applied more strictly, and this has caused some social and political tension within Turkey. Recently, the MHP (Nationalist Action Party) proposed to the AKP that they work together to make the necessary legal changes in order to lift the headscarf ban in the universities. Eventually the AKP and MHP came to an agreement to solve the issue. On 6 and 9 February 2008, the AKP with the support of the MHP and DTP parliamentarians made constitutional amendments in Articles 10 and 42 to allow for the wearing of the headscarf in the universities. As a response to this, on 27 February 2008, 118 MPs from the CHP and DSP applied to the Constitutional Court in order to file a case against these constitutional amendments. The Constitutional Court accepted the file on 6 March 2008.

On 16 May 2008, the reporter of the Constitutional Court, regarding the amendments to Articles 10 and 42, stated in his report that the Constitutional Court is authorized to conduct only 'procedural review' and not 'review of content.' Despite this clear report, the Constitutional Court on 5 June 2008 decided to nullify the constitutional amendments allowing the headscarf and sided with the continuation of the headscarf ban in the universities.

²⁵⁶ Howe, Marvine. 2000. *Turkey Today, A Nation Divided over Islam's Revival*. Oxford: Westview Press, p.102.

The Constitutional Court argued that the headscarf in the universities is against the principle of secularism, which is an unalterable article of the constitution. In fact, it can be argued that the headscarf is not against secularism as applied in more liberal democratic countries, but it could possibly be against a particular (authoritarian) interpretation of secularism. In fact, it should be pointed that there is nothing within the text of the Constitution that would prevent allowing the headscarf; however, the Constitutional Court offers an illiberal interpretation of the secularism principle in the constitution and chooses to ban it, which is apparently against the civil liberties.²⁵⁷

Related to this issue, many jurists in Turkey including Ergun Özbudun, have stated their conviction that the Constitutional Court, in annulling the mentioned amendments on headscarf, went against its limited and well-defined duty, and chose to review the content of the amendment rather than its procedure, which was against the Constitution.²⁵⁸

Another controversial issue is that the Constitutional Court traditionally makes a distinction between public and private. The Court argues that the headscarf could be used in private places but not in public places such as universities. However, the distinction between public and private is controversial. In fact, if all places that are open to public are viewed as ‘public’ places as the argument goes, then why is not there any constraints on dressing codes in places such as hospitals and restaurants that are also apparently public places? This question remains to be answered. On the other hand, if a ‘public’

²⁵⁷ For constitutional arguments concerning the headscarf and liberty of conscience, see Erdoğan, Mustafa. 2000. *Demokrasi, Laiklik, Resmi Ideoloji*. Ankara: Liberte, see also Erdoğan, Mustafa. 1993. *Liberal Toplum Liberal Siyaset*. Ankara: Siyasal Kitabevi.

²⁵⁸ For Ergun Özbudun’s comments on this issue see <http://www.ntvmsnbc.com/news/449046.asp>.

place means an ‘official’ building, then why is not there a ban on headscarf, say in the courts, which are apparently official buildings. These questions remain to be answered.

6.2.2.1 The Possibility of an Overlapping Consensus on the Headscarf Issue in Turkey

If the headscarf issue is perceived as a ‘non-just’ practice by a significant number of citizens in this country, then it would not be possible to talk of an ‘overlapping consensus’ in this country on this issue. It should be admitted that the headscarf issue is primarily not a legal issue but a matter of social consensus. In this regard, it is a matter of mutual trust and understanding among the religious and the secular people.

As such, religious people in Turkey are in a position to emphasize, without any ambiguity, that they want freedom for religious practices, not because they want a religion-based state but simply because they want to practice their religious beliefs freely in accordance with the basic rights and liberties. Put differently, religious people are in a position to make it clear, by word and deed that they are practicing Muslims and not anti-secular people in their legal commitments. Such clarity would be crucial for inter-group trust in Turkey among the religious and secular people.

6.3 A Rawlsian Perspective on Secularism in Turkey: The Possibility of an Overlapping Consensus

In this part, the relevance of Rawlsian concepts for the issue of secularism in Turkey is mentioned, and the conditions of an overlapping consensus on religious issues is discussed. It would be reasonable to start the discussion with the original position, which

enables persons to reflect upon religion and religious issues in an 'as objective and just as possible' way.

6.3.1 Original Position

As formulated by Rawls, in the original position, no one would know what his religious background would be; whether he would be a Muslim, a Christian, a Jew, a Buddhist, an agnostic, an atheist, or whatever. Under such a veil of ignorance, citizens would be in a position to decide for themselves how the basic structure of the society should be arranged in terms of the role of religion in the state and society.

It can be assumed that rational citizens who go under the veil of ignorance would come up with a tolerant and pluralist attitude about religion. Most people would come up with something similar to the liberty principle,

a-) Each person has the same infeasible claim to a fully adequate scheme of basic liberties, which scheme is compatible with the same scheme of liberties for all.

A person who would genuinely go under the veil of ignorance would realize the fact that one could have been in another's position, and that person could have been in his position. For example, a Sunni appreciates the fact that coming from a different family, he could have been an Alewite; and an Alewite appreciates the fact that he could have been a Sunni... Such an understanding would bring mutual understanding, respect, and toleration. However, toleration would not mean the acceptance of the truth claims of each and every group (see the burdens of judgement below), but rather it would mean equal respect for everyone.

6.3.2 Burdens of Judgment

It needs to be admitted that religion by nature is a difficult and controversial issue and it's not really possible for anyone to "prove" or "disprove" any religion, or even any statement that has the form of a "belief." The existence of inherent difficulties in proving the truth-ness of religious or moral statements is called by Rawls as "*the burdens of judgment*." Rawls notes that burdens of judgment include such factors as the following:

The evidence bearing on the case is complex and conflicting; the weight to be attached to any give peace of evidence is contestable; our concepts are vague and subject to hard cases; and our judgments are imponderably but decisively and differently influenced by the whole course of our individual moral experience."²⁵⁹

In religious or moral matters, arguments may always be put forth by "owners" of a particular belief in order to support their belief, but those arguments will never be fully compelling to others having different backgrounds and experiences. Admitting this as a fact of the human condition, citizens need to respect other citizens' divergent religious convictions without suspecting their good intention or their full capacity to reasoning.²⁶⁰

It can be said that someone by reflecting upon the burdens of judgment would most probably become more open-minded and tolerant in religious and philosophical matters and would likely never force anyone to his own beliefs. Here, an important matter should be explained, which is, someone's admitting the burdens of judgment and tolerating others would not mean that he would become indifferent to truth claims or that he would become an agnostic. This would not need to be the case. He could continue to believe in the "truth" of certain beliefs and the falsity of other beliefs, yet tolerate the

²⁵⁹ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.56-57 (slightly paraphrased by Mulhall and Swift in Mulhall, Stephen and Swift, Adam. 1996. *Liberals and Communitarians* (2nd edition). Oxford: Blackwell, p.177.

²⁶⁰ It can be observed that there are many reasonable and sincere people among different faiths, and that they all have their own personal reasons and justifications for believing in whatever they believe.

owners of the beliefs that he believes to be false due to the burdens of judgment.²⁶¹ He would recognize that it would be unreasonable to suppress and force others to his own beliefs. He would just tolerate their existence.²⁶² This is probably the real meaning of religious toleration, which went hand in hand with liberalism in the Western countries during the 17th century and afterwards. Taking into consideration religious pluralism in Turkey, toleration is quite crucial and necessary.

6.3.3 Religious Pluralism in Turkey and the Issue of Toleration

In Turkey, a great majority of the people are Muslims (about 99%), however there is still an inter-Muslim and inter-religious plurality in this country (Some of the religious denominations in Turkey are Sunni, Alewite, Jew, Catholic, Protestant, Süryani, Orthodox, Gregorian, Bahai, etc.).²⁶³ There are irreconcilable doctrinal differences among these groups, and it seems that without suppression it is quite unlikely that these differences will disappear in the near future. Most probably, they will persist over time ('the fact of pluralism'). In this regard, Turkish people are in a position to live peacefully with other faiths without trying to suppress them.

It can be argued that in terms of religious doctrine, toleration could possibly be justified in various ways from within the structure of the existing comprehensive

²⁶¹ Concerning this issue, John Rawls noted: "Properly understood, then a political conception of justice need be no more indifferent, say, to truth in philosophy and morals than the principle of toleration, suitably understood, need be indifferent to truth in religion." (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.150.)

²⁶² Not tolerating other beliefs and trying to suppress them by using state power would be 'unreasonable.' Rawls wrote: "Reasonable persons think it unreasonable to use political power, should they possess it, to repress comprehensive views that are not unreasonable, though different from their own. (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, 60).

²⁶³ For a general view on religious minorities in Turkey, especially on the Greek, Armenian, and Jewish communities, see Howe, Marvine. 2000. *Turkey Today, A Nation Divided over Islam's Revival*. Oxford: Westview Press, pp.89-101.

doctrines in Turkey. Muslims can possibly justify it with reference to the Muslim principle “there is no coercion in religion,” and other religious groups can possibly justify it with reference to their own religious or communal values. Plural and possibly divergent ways of justifying religious pluralism from within different comprehensive doctrines would eventually serve the sustenance of peaceful religious co-existence in Turkey.

A genuine religious tolerance and peace in Turkey would only be possible if both religious and the non-religious people view each other with trust. Without trust, peaceful interaction would be impossible. Inter-personal and inter-group trust is extremely important for a consensual politics to emerge in a country. Although there is some relative improvement on this issue in recent years, “trust,” which is an important component of social and political capital, is still relatively lacking among the social groups in Turkey.²⁶⁴ This is a critical issue in terms of the formation of constitutional consensus as well as an overlapping consensus in Turkey.

6.3.4 The Issue of Neutrality of the State in Turkey

It is stated in the Turkish Constitution that the Turkish state is a secular state and that the state and religion are separate. However, in practice, the state and the religion are not separate, but officially linked through the Religious Directorate of Turkey (Diyanet İşleri Başkanlığı), which is organizationally under the Prime Ministry. This Directorate is held responsible for providing religious services to Muslims. The mosques in Turkey are under the control of the Directorate, and all Friday sermons are prepared and distributed by this religious body. As such, it can be argued that religion in Turkey is under the

²⁶⁴ For a discussion of the importance of interpersonal trust in politics, see Inglehart, Ronald. 1999. "Trust, Well-Being and Democracy," in *Democracy and Trust* (M. Warren, Editor). New York and Cambridge: Cambridge University Press, pp.88-120.

control of the state. The Religious Directorate provides services to Sunni Muslims, yet does not provide services to the Alewite Muslims who comprise about one fifth of the population in Turkey who pay taxes as citizens. The Directorate does not provide support to the Alewites' places of worship (*cemevleri*), which is apparently discriminatory.

In terms of the relations between state and religion, the Turkish state is in no way neutral in religious matters. The existence of an institution such as the Religious Directorate under the state's official structure is against the neutrality of the state in religious matters. Therefore, for the sake of neutrality of the state *vis-à-vis* religious groups, the Religious Directorate in Turkey should be either abolished or made an autonomous institution, and the religious issues should be left to the initiative of the civil society as in many democratic countries. The state could supervise the religious organizations; however, the state has to refrain from providing religious services to the citizens, which is, by nature of secularism the job of the citizens themselves.

In terms of the relations between state and religion, the compulsory religion course in the Turkish schools is another issue that needs to be addressed. The religion course in Turkey teaches religion from the point of view of a particular branch of Islam, that of Sunni Islam. Considering that there are non-Sunni Muslims and also non-religious people in Turkey, the religion course in schools needs to be an elective one, and teach both Sunni and Alewite versions of Islam. This would in fact be more harmonious with the secularism principle in the Constitution and neutrality of the state *vis-à-vis* different religious groups.

The elective course on religion might be structured in such a way that it informs the students about their own faith as well as other major faiths. Such pluralism in

curriculum might better equip the students in today's global world. It is a fact that in today's world, global interactions and inter-faith relations are increasing and becoming part of many people's daily lives; probably more so than it was before. Therefore, an informative, objective, and up-to-date knowledge of world religions and cultures for today's global citizens is much more relevant and necessary than it has ever been.

In this regard, an elective religion course might teach students the basics of Islam and Islamic culture, and other major faiths in the world belonging to Abrahamic, Dharmic, and indigenous traditions by using correct and up-to-date information with qualified pictures and illustrations. Such a course could possibly provide a good basis for students to understand other people's lives and beliefs.

As to the relative weight of religions within the curriculum, the content of the classes shall reasonably give more space and importance to Islam considering that the great majority of the people in Turkey are Muslims. As the course would be an elective one, those who are not interested in the course would have an option not to take it. On the other hand, the students who are interested would have a chance to acquire the basic knowledge of Islam as well as other major religions in the world.

To conclude, it can be argued that a liberal, mutually tolerating, and balanced approach in religious matters could provide a peaceful atmosphere on religious matters. It is a fact that today certain religion-based issues in Turkey, such as the headscarf ban and the disadvantaged status of the religious minorities, are perceived by many citizens in Turkey as unfair. Therefore, seeking democratic, egalitarian, and libertarian solutions to religious issues would be critically important in terms of forming an overlapping consensus on the issue of secularism in Turkey.

CHAPTER 7

THE POSSIBILITY OF AN OVERLAPPING CONSENSUS ON THE KURDISH ISSUE IN TURKEY

7.1 The Political Background of the Kurdish Issue

The Kurdish issue is one of the major issues of contemporary Turkish democracy, and it can reasonably be argued that without having an (overlapping) consensus on this issue, it would simply not be possible to talk of a democratic consolidation in Turkey. Therefore, it is critically important to reflect upon this issue with empirical and theoretical rigor and discuss how Turkey can reach a political consensus on this issue. In fact, many authors so far have written on the Kurdish issue and made their unique contributions concerning different dimensions of the issue.²⁶⁵

The Kurdish issue is a multi-faceted issue with ethnic, cultural, political, militaristic and international dimensions. However, this chapter does not aim to cover all of these dimensions, but only to discuss the issue in terms of the possibility of forming a democratic consensus with reference to Rawlsian political liberalism. It is argued in this chapter that the Kurds in Turkey have certain fundamental problems such as cultural recognition and that many Kurds are discontented as citizens. It can be argued that without their discontent being addressed and resolved, it would be impossible to talk of

²⁶⁵ See Olson (1989), Kreyenbroek and Sperl (1992), Ciment (1996), Gunther (1997), Kirişçi and Winrow (1997), Yeğen (1999), Cemal (2003), and Heper (2007).

the legitimacy of Turkish democracy, considering that there are about 15 million Kurds living in contemporary Turkey, who comprise about 20% of Turkey's population.²⁶⁶

Most of the Kurds today live under six nation-states. The states they are dispersed are Turkey (in which the most number of Kurds in the world live), Iraq, Iran, Syria, Azerbaijan, and Armenia. Kurds are generally considered to be 'an ethnic group without a state.' Ciment noted "since the breakup of the Soviet Union, the Kurds have become the largest ethnic group in the world that occupies a geographically compact area and has no nation-state of its own."²⁶⁷ The Kurds carried out various armed struggles against the nation-states where they live in order to gain full independence or partial autonomy. Although the Kurds today do not have an independent nation-state, they have a Kurdish autonomous region in the North Iraq, which became de facto independent in November 1991 and was recognized as an autonomous region by Transitional Administrative Law in post-Saddam Iraq on January 30, 2005.²⁶⁸ This region today enjoys some political and cultural autonomy within the nation-state of Iraq. In order to render the ethnic dimension of the Kurdish issue more comprehensible for readers, some basic information on the Kurds as a people in history and their current situation in the Middle East is given below.

The historians note that the Kurds as a people are of Mesopotamian origin and they have been living in the Mesopotamian region for thousands of years.²⁶⁹ They speak an Indo-European language called Kurdish, which has three major dialects: Kurmanji,

²⁶⁶ According to Gunther, Kurds comprise 24.1% of Turkey's population; while according to David McDowall (1992:32), Kurds make 19% of Turkey's population. (Gunther, Michael. 1997. *The Kurds and the Future of Turkey*. New York: St. Martin's Press, p.59; McDowall, David, "The Kurdish Question: A Historical Review," In Kreyenbroek, Philip G., and Sperl, Stepan (Eds). 1992. *The Kurds: A Contemporary Overview*. London, New York: Routledge, p.32.)

²⁶⁷ Ciment, James. 1996. *The Kurds: State and Minority in Turkey, Iraq, and Iran*. New York: Facts on File, p.1.

²⁶⁸ The Iraqi provisional constitution as of 30 January 2005 recognized the autonomy of the Kurdish region within Iraq. See <http://focusweb.org/pdf/Reconstruction-Dossier.pdf>.

²⁶⁹ <http://www.time.com/time/magazine/article/0,9171,972756,00.html>.

Sorani, and Gorani.²⁷⁰ For many centuries, the Kurds lived under small principalities (beylik) and sheikdoms in the Middle East. Between the 16th and 19th centuries, they lived in the Ottoman Empire and Persia without having any major political problems. In the Ottoman Empire, the Kurds were considered to be part of the nation of Islam (ummah) along with Turks, Arabs, Albanians, Bosnians, and the other Muslim subjects. However, with the rise of nationalism, the Kurds started to strive for nationhood and launched struggles for an independent nation-state.

Historically, the Kurds started to show the first signs of ethnic consciousness during the 19th century, yet they stayed loyal to the Ottoman Empire due to the common bond of Islam between the Turks and the Kurds. After World War I however, the Kurds started to vying for nationhood and started to struggle for an independent nation-state.²⁷¹ During the Turkish War of Independence (1920-1923), Atatürk somehow succeeded to gain the support of the Kurds through diplomacy; however, after the War of Independence was won, the alliance with the Kurds lost some of its ground due to the rising *ethnic* Turkish (and Kurdish) nationalisms in the late 1920s and 1930s.²⁷²

It can be argued that the historical shift in Turkey towards ethnic Turkish nationalism, which needs to be differentiated from civic nationalism, caused the general resentment of the Kurdish people and led them to believe that they are somehow discriminated against on an ethnic basis and not recognized as an equal group within the

²⁷⁰ Kreyenbroek, Philip G., and Sperl, Stepan (Eds). 1992. *The Kurds: A Contemporary Overview*. London, New York: Routledge, p.35.

²⁷¹ For better understanding the emergence of Kurdish nationalism, see Olson, Robert. 1989. *The Emergence of Kurdish Nationalism and the Sheikh Said Rebellion, 1880-1925*. Austin: University of Texas Press, p.1-25.

²⁷² On this issue, see especially the third part in Yeğen, Mesut. 1999. *Devlet Söyleminde Kürt Sorunu*. Istanbul: İletişim.

state's moral constituency.²⁷³ Based on such a perception of discrimination and a resultant resentment, Kurds launched various revolts against the Turkish state, which sometimes displayed also some Islamic dimensions as in the case of the Sheikh Said Rebellion. Some information on the Kurdish rebellions is presented below.

There have been many Kurdish revolts in Turkey such as the Koçkiri Rebellion (1920), Sheikh Said Rebellion (1925), Shaikh Abdurrahman Rebellion (1927), the Ağrı (Ararat) Rebellion (1927-1930), and the Dersim Rebellion (1937). Among these, the militarily and politically most critical ones have been the Sheikh Said, Mount Ararat, and the Dersim rebellions. It can be argued that the PKK insurgency could be considered the most recent revolt.²⁷⁴ Following is some basic information about these revolts.

Sheikh Said Rebellion (1925) was organized by the Azadi Kurdish organization which aimed for Kurdish independence and was led by the Zaza cleric Sheikh Said Piran, who had convinced the Hamidiye commanders to fight for Kurdish independence and who had the support of Britain. Said had 10,000-15,000 troops and the Turkish state quelled the rebellion with 50,000 soldiers being able to suppress it with success towards the end of March 1925.²⁷⁵

The Mount Ararat Rebellion took place in 1927 during which some Kurds declared independence under the leadership of Ihsan Nuri Pasha. The rebels designated a village near Mount Ararat as the capital of what they thought as Kurdistan. On June 11,

²⁷³ It is crucial to note that 'moral recognition' is something qualitatively different from gaining material success or affluence in the society. The primary issue in Turkey seems not to be economy or material success per se, but moral and cultural recognition which is the primary concern of most Kurds in Turkey.

²⁷⁴ Birand, Mehmet Ali, *Hürriyet*, 3 January 2008.

<http://hurarsiv.hurriyet.com.tr/goster/haber.aspx?id=7957404&yazarid=69>.

²⁷⁵ Olson, Robert. 1989. *The Emergence of Kurdish Nationalism and the Sheikh Said Rebellion, 1880-1925*. Austin: University of Texas Press, p. 102.

1930, the Turkish forces intervened in the region with 66,000 troops and 100 aircraft and captured the region on September 17, 1930.²⁷⁶

The Dersim Rebellion (1937-1938) is another politically crucial Kurdish rebellion in Republican Turkey. It was led by the Dersim Alewites and headed by Seyit Riza, chief of the Abbasuşağı tribe.²⁷⁷ The Turkish military deployed 50,000 soldiers to suppress the revolt, and it was put down on 5 September 1937, and eventually Seyit Riza and 10 of his men were hanged.²⁷⁸

The most recent Kurdish insurgency has been activated by the PKK (Kurdistan Workers Party), which is an outlawed Kurdish organization with Marxist-Leninist roots aiming for Kurdish autonomy. The organization is considered as a terrorist organization by the US, NATO, and the EU. The PKK was established in 1978 by Abdullah Öcalan (commonly referred to as Apo).²⁷⁹ The PKK started its first terrorist activities in 1984 and today continues to bomb, kill, and kidnap civilians and soldiers. It is reported that it has caused the death of about 37,000 people.²⁸⁰ It should be noted that between 1984-1999, the terror activities of the PKK were quite intensive; however, between 1999-2004 the organization declared a cease-fire. In 2004, it restarted its terrorist activities and caused many killings and bombings especially in 2007 and 2008.²⁸¹ Due to its declining reputation, the PKK changed its name into KADEK in 2002, and later into

²⁷⁶ Olson, Robert. 2000. "The Kurdish Rebellions of Sheikh Said (1925), Mt. Ararat (1930), and Dersim (1937-8): Their Impact on the Development of the Turkish Air Force and on Kurdish and Turkish Nationalism," *Die Welt des Islams* 40(1), pp.81-88.

²⁷⁷ The city of Dersim, after the suppression of the rebellion, was renamed by the Turkish state as 'Tunceli.'
²⁷⁸ webarsiv.hurriyet.com.tr/1999/07/06/128847.

²⁷⁹ Gunther, Michael. 1997. *The Kurds and the Future of Turkey*. New York: St. Martin's Press, pp.24-25.

²⁸⁰ See <http://www.polismerkezi.org/?part=yazar&gorev=oku&id=68>, and BBC News 8 April 2007, <http://news.bbc.co.uk/2/hi/europe/6537751.stm>.

²⁸¹ One of the recent major terror activity of PKK has been its attack of the police station in *Aktütün* (Hakkari) on 3 October 2008, in which 15 policemen were killed.

KONGRAGEL in 2003. However, it should be noted that the Turkish state continues to use the name PKK while referring to the terrorist organization.

In the political arena, there have been certain political parties that have represented the Kurdish identity and movement. Among these parties, the People's Labour Party (HEP) was founded in 1990, which later changed its name into the Democracy Party (DEP) in 1991. The DEP was banned in 1994 by the Constitutional Court for its allegedly 'divisive' and 'separatist' policies, and it was substituted by the People's Democracy Party (HADEP) in 1994. Along with the HADEP, another party named Democratic People's Party (DEHAP) was founded in 1997 and it was also banned in 2003 like its predecessors.²⁸² After the closure of DEHAP, the Democratic Society Party (DTP) was founded in 2005, and today still continues its political activities despite the fact that the Supreme Court opened a closure case against it in November 2007 and the suit is still pending. The underlying reason behind the lawsuit is that the DTP, like its predecessors, is charged with pursuing separatist activities and to have political connections with the outlawed Kurdistan Workers Party (PKK).²⁸³

With respect to the range of the attitudes among the Kurdish population in Turkey towards the PKK Kurds do not constitute a homogenous political entity and different segments of the Kurdish population seek diverse political alternatives ranging from gaining cultural rights through EU reforms to possibly federation, and from federation to secession.²⁸⁴ Both peaceful and violent methods are used by different Kurdish groups to reach their political ends.

²⁸² See Ergil, Doğu. 2000. "The Kurdish Question in Turkey," *Journal of Democracy* 11(3), pp.128-129.

²⁸³ <http://www.turkishdailynews.com.tr/article.php?enewsid=101583>.

²⁸⁴ Kirişçi Kemal and Winrow M. Gareth. 1997. *The Kurdish Question and Turkey*. London: Frank Cass, pp.183-205. It needs to be acknowledged that there are certain Kurds in Turkey who favor secession from

Among the political alternatives that range from gaining rights through democratization to possibly secession, Kirişçi and Winrow argue that federation or secession is politically unrealistic considering that the Turkish state wants, at all costs, to keep its territorial integrity.²⁸⁵ Such alternatives are considered by the authors as unrealistic also due to the unstable character of the Middle East region where an independent Kurdish state would cause various instabilities and problems.²⁸⁶ In this regard, the most realistic and viable option seems like further democratization and providing more cultural rights for the Kurds, along with ameliorating the socio-economic conditions of the Kurdish populated areas in Turkey (East and Southeast Turkey).

It can be argued that the Kurdish issue in Turkey cannot be solved by using only militaristic means. As the Turkish republican history has shown, approaching the issue merely from a militaristic point of view has not been able to solve the Kurdish issue or end the political violence.²⁸⁷ It seems that only a political/social consensus might possibly solve the problem in a long-lasting manner. Therefore, democratic politics is quite critical, and the pro-Kurdish political parties in Turkey would have an important role. In this regard, the DTP being in the Turkish Parliament for the time being presents a democratic opportunity and this party has a political responsibility to put forth the Kurdish issue through democratic means. They are in a position to defend the rights and

Turkey and establishing an independent Kurdish state. The outlawed Kurdistan Workers Party (PKK) used to pursue an independent Kurdish state until recently, but in the recent years it seems to have pragmatically shifted toward pursuing 'federation,' or gaining certain political rights.

²⁸⁵ Kirişçi Kemal and Winrow M. Gareth. 1997. *The Kurdish Question and Turkey*. London: Frank Cass, pp.187-188.

²⁸⁶ For a discussion of this issue see Kirişçi Kemal and Winrow M. Gareth. 1997. *The Kurdish Question and Turkey*. London: Frank Cass.

²⁸⁷ It can be argued that the 'securitization' of the issue by the military does not help but obscure the possible democratic solutions in Turkey.

liberties of the people in Turkey from within a democratic and rights-based discourse and to reject violence.

In the coming part, Turkey's nationalistic policies in relation to the Kurdish issue, which is a form of utilitarianism, is contrasted with a liberal position.

7.2 The Utilitarian versus the Liberal Position on the Kurdish Issue

Utilitarianism based on ethnic majoritarianism does not always take the rights of ethnic minorities seriously and might cause certain human rights violations, as has been the case in Turkey concerning the Kurds.

7.2.1 The Traditional Utilitarian Approach of the Turkish State on the Kurdish Issue

It can be argued that until recently, the Turkish state has had a utilitarian approach in its policies towards the Kurds, in the sense that it mostly has not seriously take into consideration the individual rights of the Kurds as individuals, and has come to refer to a 'calculus of welfare' among the majority of the population (most of whom are Turks). Such a calculus based on masses rather than individual rights or human rights cannot be considered politically legitimate from an individualist and rights-based approach, because utilitarianism, as Rawls put it, "does not take seriously the distinction between persons."²⁸⁸ Not taking seriously the distinction between persons, utilitarian approaches and policies might easily cause the violation of certain individual rights and liberties,

²⁸⁸ Rawls, John. 1999 (revised edition). *A Theory of Justice*. Cambridge: Harvard University Press, p.24.

which is the case for the citizens of Kurdish origin living in Turkey, or of other minorities in Turkey.

It is a fact that the Kurdish people in Turkey have been exposed to various human rights violations and discriminations.²⁸⁹ They were not even able to speak their mother tongues in public areas during 1983-1991.²⁹⁰ The recent EU reforms (harmonization packages) in Turkey changed the condition of the Kurds in Turkey for better. The constitutional amendments in 2002 and 2004 has enabled broadcasting in Kurdish as well as enabled education of the Kurdish language in private courses.

The nationalist state ideology in Turkey has been directly influential on the relatively disadvantaged status of the Kurds in Turkey and the negative attitude of the Turkish state towards them. Although the Kemalist definition of ‘Turkishness’ has certain civic republican elements in it, it is not devoid of an ‘ethnic’ (Turkish) dimension as well. The word Turkish or Turk that is used in the Turkish political context seems to refer, in practice, not only to a civic factor but also to an ethnic Turkish dimension. Popular beliefs such as “*Everyone living in Turkey is a Turk*” or the motto “*Türkiye Türklerindir*” (Turkey belongs to Turks)²⁹¹ can sometimes be used as mottos in favor of Turkish ethnic nationalism and political authoritarianism.²⁹²

²⁸⁹ Gunther, Michael. 1997. *The Kurds and the Future of Turkey*. New York: St. Martin's Press, pp.12-13.

²⁹⁰ Speaking Kurdish was banned in 1983 by Kenan Evren (the general who carried out the 1980 coup), and the ban continued until 1991 when a constitutional amendment removed the ban.

See Gunther, Michael. 1997. *The Kurds and the Future of Turkey*. New York: St. Martin's Press, p.62.

²⁹¹ The motto of the *Hürriyet* daily. It is a fact that the motto of the *Hürriyet* daily “*Türkiye Türklerindir*” (Turkey belongs to Turks) plays on a certain ambiguity and double meaning. On the one hand, it seems to refer to Turkish citizenship, but on the other hand it also has implications of ethnic (Turkish) nationalism.

²⁹² It can be argued that what breeds Kurdish nationalism in Turkey is probably the ethnic Turkish nationalism that is disseminated by means of the official state ideology. And as long as the official Turkish nationalism remains authoritarian, it is going to continue producing an authoritarian reaction and backlash among the Kurds.

It can be claimed that the Turkish state relies on authoritarianism in ethnic matters due to its strong fear of being divided, which dates back to the Sévres Treaty which was drafted but never implemented. This fear of division, which is generally called the *Sévres Syndrome*, is very strong among the Turkish state elites as well as the common Turkish people, and is one of the main factors that makes democratic openings in Turkey less likely. In fact, it is absolutely necessary that the psychology of fear be relieved in Turkey in order to reach a democratic solution on the Kurdish issue in Turkey.

The Turkish state and its leaders have openly recognized the 'Kurdish reality' in Turkey only very recently. The attitudes of Özal, İnönü, Demirel, and Erdoğan on the Kurdish issue, announcing at different time periods that they recognize "the Kurdish reality," have been quite useful so far, and further initiatives are necessary for continuing to integrate the Kurdish people into the polity through 'constitutional citizenship.'

The term 'constitutional citizenship' was first pronounced by Demirel in 1992, causing many discussions and disputes in the public.²⁹³ This term implies that citizenship needs to be based on constitutional guarantees and not based on any ethnic or other discriminative criteria. It can be argued that only through constitutional citizenship can the allegiance of the Kurds to the Turkish state can go beyond being a 'modus vivendi' and become an 'overlapping consensus.' The issue of modus vivendi, constitutional consensus, and overlapping consensus in the context of the Kurdish issue will be dealt in the next section.

²⁹³ See Gunther, Michael. 1997. *The Kurds and the Future of Turkey*. New York: St. Martin's Press, pp.66-67.

7.3 The Kurdish Issue in Relation to Constitutional Consensus and Overlapping Consensus

If the Kurds' allegiance to the Turkish state would be a matter of balance of power among the separatist groups and the Turkish state, then that order based on balance of power would be called a *modus vivendi*, and not an overlapping consensus.

Regarding conditions of consensus in Turkey, it could be argued that the conditions of constitutional consensus, the basic political rights of Kurds, are more or less secured by the EU reforms. Constitutionally, the Kurds have most basic political rights and liberties; however, there are still problems with application. For example, it is normally allowed to sing in Kurdish in concerts or make cassettes in Kurdish, however they are sometimes censored by the Turkish authorities.²⁹⁴ Thus, there are still some problems in terms of securing basic rights and liberties. Another issue related to constitutional consensus is the use of public reason and being civil and tolerant.

The use of public reason is quite critical in terms of the democratic solution of the Kurdish issue. When citizens in Turkey would like to suggest a certain policy, they need to put it in such a way that it would be justifiable to other citizens by the use of public reason. That is to say, they need to address 'public' (as opposed to personal or clique-based) reasons while supporting their arguments in the political forums. They need to "move out of the narrower circle of their own views and to develop political conceptions in terms of which they can explain and justify their preferred policies to a wider public so as to put together a majority."²⁹⁵ It can be argued that following Turkey's EU candidacy,

²⁹⁴ See *Radikal*, 24 October 2002, <http://www.radikal.com.tr/haber.php?haberno=54296>, and <http://www.freemuse.org/sw6254.asp>.

²⁹⁵ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.165.

there has been much improvement in Turkey in terms of using public reason and putting the Kurdish issue in a rights-based and publicly communicable language.

Concerning moderation, the rejection of violence and the use of democratic procedures for the accommodation of political rivalry, there are still problems. Terror still dominates the Kurdish issue, and on the other hand, the DTP is under threat of closure. These two issues demonstrate that there is still inroads to be made on the Kurdish issue in order to reach a constitutional consensus.

In terms of overlapping consensus on the Kurdish issue, Turkey is still far away from a possible overlapping consensus. This is because most Kurds think that the basic institutions in Turkey are still unjust in terms of the ethnic relations. They believe there is discrimination and oppression. This perception hinders an overlapping consensus on the issue in Turkey.

Many citizens in Turkey who are of Kurdish origin seem not to be convinced that they live under just and legitimate basic institutions. That leads to a legitimacy crisis and problems of stability. For an overlapping consensus to emerge, ethnic groups in Turkey need to feel that they live under free and equal conditions, where they can freely express themselves in the public political forums and have equal access to all means of human welfare (real and symbolic). The republican values in Turkey would require building such equality. This would be possible if a reflective equilibrium is sought by the citizens concerning their ethical attitudes on ethnic relations in light of republicanism.

Seeking such reflective equilibrium could possibly lead to an overlapping consensus on the Kurdish issue, which has in fact become more likely by the EU-Turkey relations and reforms in Turkey. In the next section, the relevance of Rawlsian concepts

for the Kurdish issue in Turkey is discussed, as is the possibility of a (liberal) overlapping consensus on this issue.

7.4 Rawls' Political Liberalism and the Possibility of an Overlapping Consensus on the Kurdish Issue in Turkey

What would be the Rawlsian political liberalism's position on the Kurdish issue? What would be the relevance of the original position, veil of ignorance, public reason, constitutional consensus, and overlapping consensus in relation to the Kurdish issue? It can be argued that all these concepts have much relevance and applicability to the Kurdish issue. Below is discussed the relevance of original position.

It could be argued that the original position and veil of ignorance have direct relevance to the Kurdish problem in Turkey. Citizens of Turkish and Kurdish ethnic origin, going through the original position would be in a position to design such principles that they would somehow not oppose when they move out of the original position. They would be in a position to choose for themselves such principles that they believe would be 'just' in terms of ethnic relations in the polity. Assuming that people would behave rationally under the conditions of veil of ignorance, they would probably design such a constitution that does not violate the basic rights and liberties of any groups, and they would do legislations that would not lead to any unfavorable conditions or discrimination for any groups.

7.4.1 The Original Position

Imagine that behind the veil of ignorance, one does not know whether he is a Turk, Kurd, or of some other ethnicity. The original position being a ‘device of representation’ enables a person to do a mental exercise upon the contingency of the human qualities, and one can enter into the original position whenever one likes to have some clarity on controversial issues of justice. Imagine that individuals living in Turkey were behind the ‘veil of ignorance’ and that they were in a position to decide the basic principles that would apply to the basic structure of the Turkish state.

Behind such a veil, no one would know his or her ethnicity; no one would know whether he or she is a Turk, Kurd, Armenian, or a Greek.²⁹⁶ Ethnicity would be completely contingent. The question is that under such conditions of contingency would one, as a rational individual, choose to allow any ethnic discrimination or somehow allow it within the polity? This would hardly be possible, because the discriminated ‘other’ might well be himself. No one in this case would really take that risk. Just suppose that in the veil of ignorance someone decides that certain ethnicities, for instance the Kurds, should be discriminated against, and then the person comes out from under the veil of ignorance and realizes that he is a Kurd, then what would his life be like? How would that person respond to that? Here, these questions are not rhetorical or imaginary questions but are about the *real* human condition. They rely on a certain level of ‘*abstraction*,’ of course, but only to have the chance to access to the ‘*hard reality*’ in our world.

²⁹⁶ Behind the veil of ignorance “no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like.” (Rawls, John. 1999. *A Theory of Justice* (revised edition). Cambridge: Harvard University Press, p.118.)

When one becomes aware of the very contingency of life, one might become more broad-minded and tolerant. On the other hand, when one thinks in 'essentialist' terms it is more likely that the person would become intolerant and suppressive towards others. The basic intuition in life that enables persons to understand that one could have been anything in terms of ethnicity, culture, religion, class, etc. makes people potentially open-minded. Upon deep and genuine reflection, one realizes that the other is no one but a potential 'oneself.' In this mode of comprehension, one has the sense that all persons share the same human condition, which brings more understanding, insight, and toleration.

The Kurds and Turks are politically in a position to put themselves in the others' shoes: If I were of the other ethnic origin, what would I expect the state and my fellow citizens to do and how would I expect them to behave? This question lies at the basis of civility and civic friendship. This looks like an easy exercise, but it is mostly not practiced by either side. Yet, it is very crucial from an inter-actional point of view.

7.4.2 The Communitarian Position versus the Liberal Position

The communitarian critics of Rawls argue that ethnicity, religion, class, etc. are not things *added* to a person but they are *constitutive* of one's identity. There might be some validity to this argument. However, the Rawlsian intuition that lies at the basis of the veil of ignorance is that people are ultimately not their personalities, class position, or ethnicity; but merely the 'owners' and 'bearers' of these '*contingencies*.' One's value and

merit does not come or stem from contingencies, but is prior to and beyond these contingencies.²⁹⁷

The basic intuition here is that being a Turk or German has no relevance at the deepest level of people's moral existence. It only makes a difference at the less ontological and more contingent levels, such as culture, class, personality, etc. It is not that these things are unimportant. At a certain level, they might be very important, but their importance should not surpass or bypass deeper human qualities and the universal rights arising out of them.

It is a fact that the language communarians use is fundamentally different from, and even diametrically opposed to, the Rawlsian liberals. Whereas the communarians identify with culture, ethnicity, etc., the liberals approach these features in a relatively aloof and detached way. The communitarian critics of the liberal attitude put their position by asserting the idea that "some of my ends are not simply *mine*, but *me*," and that, the most fundamental levels my commitments are not separable from who I am, but they are constitutive of my identity.'²⁹⁸ These are the basic premises of Sandel's and Macintyre's political philosophy.²⁹⁹ In order to compare and contrast Rawls with these communitarian thinkers, the two following statements in terms of their wider implications might be analyzed:

²⁹⁷ It is in fact a matter of 'equal concern and respect for individuals' that Dworkin says lies at the bottom of Rawls' theory. See Dworkin, Ronald. "The Original Position" [1975]. In: Daniels, N. 1989. *Reading Rawls. Critical Studies on Rawls' Theory of Justice*. Stanford: University Press, pp.46-53.

²⁹⁸ Sandel, Michael. 1998. *Liberalism and the Limits of Justice* (2nd edition). Cambridge: Cambridge University Press.

²⁹⁹ See Talisse, Robert. 2001. *On Rawls*. New York: Thomson Learning, Inc., p.50.

I am my culture.

versus

I have a culture.

Reflecting upon these two statements above, one could realize that they imply two different ‘modes’ of comprehension and two different views on who (or what) we are. The first statement implies that one would not exist (one would cease to exist) if one was devoid of his culture; whereas the second sentence implies that one is prior to his culture and that he would still keep his essential existence even if he somehow ceased to have a culture. This implies that one’s moral existence is independent of his culture (or of any culture in the world).³⁰⁰

Whereas the liberals have some sort of a detachment regarding their identity elements, the communitarians take these qualities more seriously and identify with them. Whereas the liberals think people are mere ‘players’ of (contingent) roles; communitarians think that the world is not a stage and the roles are not contingent. The communitarians assume the world is a place where the identities are fixed and literal and not mere ‘roles.’³⁰¹ (It seems they suppose life is no game, and therefore game theory would not apply here.)

³⁰⁰ This view is criticized Sandel, Michael. 1998. *Liberalism and the Limits of Justice* (2nd edition). Cambridge: Cambridge University Press, p.85.

³⁰¹ Hünler, Solmaz Zelyut. 1997. *Rawls ve MacIntyre, İki Adalet Arasinda* (Rawls versus MacIntyre, Between Two Notions of Justice), Ankara: Vadi, pp.307-365.

7.4.3 Rational versus Reasonable

It should be stated that the Kurds as an ethnic group have a right to be ‘rational,’ that is to say they have a right to rationally pursue certain cultural and political goals; however, they have an obligation to be ‘reasonable.’ In Rawlsian terms, a comprehensive doctrine would be reasonable if it is compatible with the essentials of civility and the democratic regime.³⁰² Reasonable persons would not consider resorting to violence in order to force their comprehensive doctrine onto others. (This applies to Turks as well as Kurds.) In Rawls’ terms, reasonable persons “will think it unreasonable to use political power, should they possess it, to repress comprehensive doctrines that are not unreasonable, though different from their own.”³⁰³ In fact, to repress others due to their ethnic or cultural difference is nothing but racism.

Racism, be it Turkish or Kurdish racism, is discriminatory and ‘unreasonable’ as much as it enforces its agenda onto others by force and repression. It is against civility. In fact, the ethnic Turks need not necessarily have sympathy towards the ethnic Kurds, or the ethnic Kurds need not necessarily have sympathy towards the ethnic Turks, however they need to see that they have to live together without killing each other under the common denominator of Turkish citizenship. This is a duty of civility and a requisite of citizenship. Citizenship is such that it brings people together under a common ‘political’ culture guaranteeing their basic rights and liberties. This gives the citizens a chance to relate to each other on equal terms with trust, respect, and reciprocity.

In this regard, the Turkish state is in a position to be as neutral as possible among different ethnic groups, and it should not enforce a certain state ideology or an ethnic

³⁰² Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.64.

³⁰³ Ibid., p.60.

nationalism on any groups. This is true for all states having a plurality of diverse groups and comprehensive doctrines. Using state power for repressing pluralities would be an unreasonable act.³⁰⁴

7.4.4 Liberty and Equality

The ‘liberty principle,’ ‘equality of opportunity,’ and the ‘difference principle’ of Rawlsian justice as fairness would no doubt primarily benefit the Turkish citizens of Kurdish origin, as being probably the least advantaged members of Turkish society, both economically, culturally, and politically.

The liberty principle would guarantee all basic rights and liberties, such as freedom of speech, freedom of press, freedom of broadcasting, etc. for the Kurdish citizens. On the other hand, the ‘equality of opportunity’ and the ‘difference principle’ would also have some implications for the Kurdish people in Turkey.

The difference principle would imply a better distribution of wealth in Turkey, which would benefit the people of Kurdish origin in Turkey. Eastern Anatolia and South East Anatolia are the ‘*least advantaged*’ parts of Turkey today, and the Kurds constitute the majority of the population in these two regions; therefore, one could say that the Kurds living in these parts are the ‘least advantaged’ members of Turkey. Thus, in accordance with the difference principle, one could prescribe that the differences in wealth could only be allowed in as much as they would increase the relative welfare of the Kurdish people and other poor and disadvantaged people in Turkey. It is reported that

³⁰⁴ Rawls put it: “when there is a plurality of reasonable comprehensive doctrines, it is unreasonable, or worse to use the sanctions of state power to correct, or punish those who disagree with us.” (Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, p.138.)

East Anatolia comprises about 14.5 percent of the households in Turkey and receive only about 10.2 percent of the total revenue.³⁰⁵

As an economic system, the property-owning democracy that Rawls favors in *Justice as Fairness—A Restatement* would especially require a more equal distribution of wealth in the Eastern and Southeastern parts of Turkey. In these regions, the state needs to provide the small farmers and small producers with enough of agricultural land and equipment so that they can be economically productive. This can be done by providing them free land out of the state's unused lands, or provide them advantaged credits. Such measures would give the small farmers and small producers some hope for the future and give them a chance to see Turkish society not as an unjust system but as a fair system of cooperation.

7.4.5 Neutrality of Aim

Rawls says that while justice as fairness is not neutral in terms of 'neutrality of procedure,' it is neutral in the sense of 'neutrality of aim' which, according to him, practically means:

- a-) that the state is to ensure for all citizens equal opportunity to advance any conception of the good they freely affirm,
- b-) that the state is not to do anything intended to favor or promote any particular comprehensive doctrine rather than another, or to give greater assistance to those who pursue it,
- c-) that the state is not to do anything that makes it more likely that individuals accept any particular conception rather than another unless steps are taken to cancel, or to compensate for, the effects of policies that do this.³⁰⁶

³⁰⁵ <http://www.die.gov.tr>.

³⁰⁶ Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press, pp.192-193.

In accordance with the neutrality of aim, the Turkish state needs to be as neutral as possible among different cultural, religious, ethnic, or other interest-based groups and not favor a particular group over another. For example, the state should not favor a particular ethnic or religious way of 'good life' over others in a discriminatory manner (as in the cases of favoring Turks over Kurds, Sunnis over Alewites, or Muslim citizens over non-Muslim citizens). The state should not expect its citizens to adopt a particular religious or ethnic life style. Plurality of values and multi-culturalism need to be observed and respected. In accordance with the 'priority of the right over the good', the protection of the citizens' rights needs to be prior to any particular notion of 'good life.' The common denominator in Turkey, as argued in the previous chapters, cannot possibly be the sectarian or particularistic values of any single ethnic, cultural, religious or congregational group in Turkey, but the common denominator could only be the constitutional citizenship and the rights and liberties guaranteed by the Turkish constitution.

In order to live together in Turkey, Turkish citizens need to have some minimum political grounds that they all agree on. This common ground it seems, can neither be a Sunni Islam (since there are many Alewites), nor a uniform Turkish or Turk-ist culture (since there are many Kurds). The common ground can be 'Turkish citizenship,' which principally endows the citizens with equal rights and liberties. People's foremost allegiance needs to be to this 'common denominator' for a possible overlapping consensus to emerge.

In the next chapter, Turkey's current socio-economic and political development is analyzed through the perspective of modernization theory in reference to the possibility

of a democratic consolidation in Turkey in the coming years. As argued previously, Rawls' takes a high level of development and modernity taken for granted while proposing his political liberalism. In this regard, Turkey's increasing level of development is crucial in terms of the relevance of Rawls' political liberalism to contemporary Turkey.

CHAPTER 8

REFLECTIONS UPON THE POSSIBILITY OF DEMOCRATIC CONSOLIDATION IN TURKEY IN VIEW OF TURKEY'S CURRENT SOCIO-ECONOMIC AND POLITICAL DEVELOPMENT

It can be argued that despite some negative political events on a daily basis in today's Turkey, there are some very promising objective factors about the future of Turkish democracy in the middle or long run if we take into account Turkey's current level of socio-economic and political modernization. It is observed that Turkey is getting closer to meeting the *minimal* requisites of socio-economic modernization, thus increasing its chances of having a sustainable democracy. Based on the World Bank, UN, and Freedom House criteria, Turkey today is very close to reaching the threshold of the following four:

- “High” GNI per capita (Gross National Income per capita)
- Relatively lower inequality of income (possibly low-middle inequality)
- “High” HDI (Human Development Index)
- “Free” rating in the Freedom House report

The founder of modern Turkey, Mustafa Kemal Atatürk had characterized Turkey's goal as attaining the level of contemporary (Western) civilization and even surpassing it.³⁰⁷ Contemporary civilization in his understanding implied material, socio-cultural, and

³⁰⁷ The goal to reach the level of contemporary civilization was expressed by Atatürk in his speech on the 10th Anniversary of the Turkish Republic in 1933.

political modernization, for which his reforms aimed. As of 2009, the question as to how close Turkey is to the goal of catching up with contemporary civilization in terms of development and democracy is a politically relevant and important issue that will be discussed in this chapter with reference to modernization theory. According to modernization theory, socio-economic development facilitates democratization. In this regard, recent improvements in Turkey's socio-economic modernization signal a positive development and will be put under scrutiny in relation to democratization. Here, before going into the main discussion, a theoretical issue in the overall structure of this dissertation, the relation between Rawls' writings and modernization, should be put into context, which was actually shortly mentioned in Chapter 3.

8.1 Rawls and Modernization

It needs to be noted that in terms of what sociological factors make a modern democratic regime become consolidated, Rawls in fact doesn't say much, either in *Political Liberalism* or elsewhere. He just states that he is writing *Political Liberalism* for modern democratic societies, and takes the background conditions of modernity for granted. And it is a fact that modern democratic societies have higher levels of industrialization, urbanization, income, literacy, etc., and these factors probably make Rawls' system of political liberalism possible in the first place. For example, using public reason effectively in public forums would require a relatively high level of education (both literacy and civic education) as well as mass communication. Having a 'republic' also pre-requires some level of 'urbanism,' which is central to Lipset's modernization theory (Rawls' emphasis on republican values assume an urban republican setting).

In fact, Rawls never attempts to comprehensively problematize the sociological features that make democracy sustainable. And it can be argued that in the literature, this issue is best addressed by Lipset, Przeworski, and Diamond. Thus, in this chapter, modernization theory is applied to Turkish democracy, and comments are made in relation to the possibility of democratic consolidation in Turkey.

8.2 Turkey, Modernization, and Democracy

Regarding Turkey's level of socio-economic and political modernization, it should firstly be mentioned that Turkey today is a candidate country for EU membership, and its economy and democracy are approaching a level of certain maturity. Turkey is the world's 17th largest economy with a GDP (nominal) per capita that has surpassed \$10,000,³⁰⁸ and through the recent democratization reforms and relative civilianization, Turkish democracy is at a point where democratic consolidation seems within reach more than ever before. There are, however, some factors which could hinder democracy's consolidation in Turkey, such as the government's ambivalent attitude toward democratization, its recently rising authoritarianism, political polarization,³⁰⁹ problems

³⁰⁸ According to the World Bank data, Turkey's GDP (nominal) per capita in 2008 is \$10,745, while its GDP (purchasing power parity) per capita is \$13,920 (For general information on GDP (nominal) per capita versus GDP (purchasing power parity) per capita, please see http://economics.about.com/od/economicindicatorintro/a/measure_economy.htm). The World Bank data concerning Turkey's GDP is derived from the available information on these two sites: http://siteresources.worldbank.org/DATASTATISTICS/Resources/GDP_PPP.pdf <http://siteresources.worldbank.org/DATASTATISTICS/Resources/POP.pdf>. According to the Turkish Statistical Institute however, Turkey's GDP (nominal) per capita in 2008 is \$10,436, which is used and referred to in this study. Note that the method by which GDP per capita is calculated by the Turkish Statistical Institute actually changed in 2008 in order to conform to the EU standards (European System of Accounts, ESA 95). Turkey's GDP per capita seems to have considerably increased after Turkey adapted to this new system. In order to see the technical details of how GDP per capita is calculated, see <http://circa.europa.eu/irc/dsis/nfaccount/info/data/ESA95/en/een00sum.htm>, and for the details of the recent changes in relation to how GDP per capita is calculated by the Turkish Statistical Institute according to ESA 95, see <http://www.tuik.gov.tr/jsp/duyuru/upload/mg080305.doc>.

concerning the Kurdish issue, the politicization of the judiciary, and the military's continuing influence in politics, despite some relative civilianization recently. However, at the macro level, certain socio-political trends can be observed which signal that democracy in Turkey is approaching a condition in which military coups become much less likely. The most solid factor leading to such a positive expectation for Turkish democracy is that Turkey today has a relatively large and effective middle class that takes democratic representation seriously, resists anti-democratic attempts, and views democracy as the only legitimate political system.³¹⁰ However, anti-democratic groups and parties are neither minor nor ineffective in Turkey, yet it is becoming increasingly more difficult for these groups to reverse democratization, thanks to the EU process in this country (which has recently stalled though), the existence of plurality in media, and the military's relatively more moderate and pro-democratic stance recently.³¹¹

While discussing the issue of democratic consolidation in Turkey, it would be appropriate to develop a more systematic and theoretical framework. First of all, it needs to be acknowledged that liberal democracy as a political regime does not emerge in a void, but mostly emerges in places where a sufficient level of capital accumulation, urbanization, communications technology, a relatively high literacy, and human

³⁰⁹ In Turkish politics, one can observe polarizations among a number of groups against each other, some of which are either somewhat artificial or rather exaggerated, such as AKP versus CHP, secular versus religious, civil versus military, etc. In this regard, one crucial issue to be noted is that, the emergence of a conservative middle class in Turkey, which is represented by the AKP, has heated up the political scene and caused tension recently, which has been observed during the presidential election process of Abdullah Gül, the headscarf controversies at the constitutional level, closure case against the AKP, and the controversial Ergenekon case.

³¹⁰ See Göksel, Nigar. 2007. "Turkey: A Maturing Democracy," published on 6 August 2007 at <http://www.turkishweekly.net/news/47374/turkey-a-maturing-democracy.html>.

³¹¹ The relatively moderate and pro-democratic attitude of the military took place starting with the policies of Chief of Staff Özkök (2002-2006) and continuing with Chief of Staff Başbuğ (2008-). In between these two periods, a relative authoritarianization took place during Büyükanıt (2006-2008), when an electronic memorandum was posted on 27 April 2007 on the website of the Chief of General Staff.

development are in place. Without the improvements in these fields and the development of a sufficiently large middle class, it can be argued that there would be little demand for democratic representation. However, if a developed middle class does exist in a country, it would be quite difficult for the political elite to suppress democratic demands for too long. In this regard, the increase in democratic demands and support for democratic regime in today's Turkey could possibly be linked to the increasing level of socio-economic development and the emergence of a larger pro-democratic middle class. The connection between development and democracy, in this regard, is a crucial and central issue that needs to be addressed, which has thus far been put forward in the literature by modernization theory. This chapter, therefore, applies modernization theory to Turkey and Turkish democracy. While doing so, this chapter presents two main contributions. The first one is that we apply modernization theory to Turkey using the most recent and updated data and information and shed light upon the relation between development and democratization in this country. The second contribution in this chapter is that, utilizing some insights of modernization theory, we make an analysis of the possible reasons for the fluctuations in Turkey's democracy ratings over the last few decades (as reported by Freedom House) and present some comments on Turkey's recently increased chances for democratic consolidation.

The chapter has two main parts to follow. In the next part, the basic premises and arguments of modernization theory are explained, and the possible relationship between democracy and socio-economic factors such as income, income distribution, industrialization, urbanization, education and human development are investigated. In the last part, Turkey's socio-economic and political indicators are evaluated by reference to

the findings of modernization theory; based on these and other relevant factors, some general insights are presented concerning Turkey's chances for democratic consolidation in the coming years.

8.3 Modernization Theory and Democratization

Modernization theory originates from Seymour Martin Lipset's article "Some Social Requisites of Democracy: Economic Development and Political Legitimacy", which appeared in 1959 in the journal of *American Political Science Review*.³¹² In this article, Lipset showed that there is a positive correlation between development and democracy. In a follow up study, Lipset stated his often cited and famous argument that "democracy is related to the state of economic development" and that "the more well-to-do a nation, the greater the chances that it will sustain democracy."³¹³ Lipset reached these conclusions through a research in which he took certain countries and classified them into two sets of countries, the first being those from Europe, North America, Australia and New Zealand, and the second being those from Latin America according to their regime types as either stable democracies, unstable democracies, unstable dictatorships and stable dictatorships. In order to find if there were any significant socio-economic differences among countries having different regime types, Lipset investigated the level of socio-economic development among the countries within each regional group. Eventually, he discovered that the more democratic countries within both groups had dramatically higher levels of socio-economic development, that is, they had higher levels

³¹² Actually, there are modernization theories in different fields of social science. The one referred to here is modernization theory in political sociology.

³¹³ Lipset, Seymour Martin. 1960. *Political Man: The Social Bases of Politics*. Garden City, NY: Doubleday, p.31.

of wealth, industrialization, urbanization, and literacy when compared to their less democratic counterparts. Lipset found that the more democratic countries had more of per capita income, number of persons per motor vehicle and per physician, and the number of radios, telephones, and newspapers per thousand persons.³¹⁴ Lipset thus concluded that economic development is the “single most important predictor of political democracy when controlling for other variables.”³¹⁵ This critical conclusion of Lipset constituted the gist of what is called modernization theory.

As to whether the arguments of modernization theory are verified by other scholars, it needs to be mentioned that several others thus far have empirically investigated the relation between development and democracy, and they have consistently found a high positive correlation between the two. Some of these authors who found a positive correlation between development and democracy are Cutright (1963), Olsen (1968), Cutright and Wiley (1969), Jackman (1973), Thomas, Ramirez, Meyer, and Gobalet (1979), Bollen (1979, 1983), Hannan and Carroll (1981), Bollen and Jackman (1985), Diamond et al. (1987), Lipset, Seong, and Torres (1993), Foweraker and Landman (2002), and Kern (2006). On the other hand, Lipset’s modernization theory and its political economy was challenged by authors who put more emphasis on human agency and elite settlements in explaining democratization, such as Dankwart Rustow,³¹⁶ and some scholars such as world systems theorists and dependency theorists who argued that the ‘core countries’ had a benefit in keeping the ‘dependent countries’ undemocratic

³¹⁴ Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.75.

³¹⁵ Lipset, Seymour Martin, Seong, Kyung-Ryung and. Torres, John C. 1993. “A Comparative Analysis of the Social Requisites of Democracy,” *International Social Science Journal* 45(2), p.12.

³¹⁶ Rustow, Dankwart. 1970. “Transitions to Democracy: Toward a Dynamic Model,” *Comparative Politics* 2(3), pp.337-363.

and unresponsive to popular demands to keep low wages in these dependent economies upon which the wealth of the core countries rested. This criticism expressed by authors such as Samir Amin has found resonance among radical left groups.³¹⁷

Among authors who investigated the relation between macro factors and democratization, various scholars found supportive empirical evidence for Lipset's arguments. For example, Coleman conducted a study of 75 countries in which he clustered them into three categories: competitive, semi-competitive, and authoritarian, and found that "countries with competitive regimes had the highest levels of development, semi-competitive countries the next highest, and authoritarian countries the lowest."³¹⁸ Another author, Olsen found that an index created by him consisting of 14 socio-economic factors had a 0.83 correlation with an index of political development / democracy (which was again created by him), and the correlation between the socio-economic variables and Cutright's democracy index was 0.84.³¹⁹ It can be said that such evidence strengthens the validity of Lipset's arguments concerning the relation between development and democracy.

Concerning the issue of how human development and socio-economic development lead to more democracy, it is argued by various authors that higher socio-economic development leads to a larger middle class and increases the demands for further political representation, participation, contestation,³²⁰ and demand for

³¹⁷ Amin, Samir. 1976. *Unequal Development: An Essay on the Social Formations of Peripheral Capitalism*. New York: Monthly Review Press.

³¹⁸ Diamond, Larry. 1992. "Economic Development and Democracy Reconsidered," in Marks, Gary and Diamond (Eds) *Re-examining Democracy, Essays in Honor of Seymour Martin Lipset*. Newbury Park, London, New Delhi: Sage Publications, p.96.

³¹⁹ Ibid., p.103.

³²⁰ Lipset, Seymour Martin. 1994. "The Social Requisites of Democracy Revisited," *American Sociological Review* 59(1), pp.1-22.

accountability of the political realm among the middle class.³²¹ It is argued that the middle classes serve as a control mechanism against the authoritarian tendencies within the polity.³²² Presence of intermediary organizations, which is probably the result of a certain level of wealth, is depicted as another critical factor by Lipset, since such organizations by increasing participation, play a counter-veiling role towards authoritarian tendencies.³²³ Evaluating and commenting on Lipset's argument as to how and through which mechanisms development fosters democracy, Diamond concluded that a careful reading of Lipset's arguments reveals that economic development promotes democracy only by "effecting changes in political culture and social structure."³²⁴ This explanation seems to be sound when explaining the relation between development and democracy. Throughout the next pages, the relation between democracy and the relevant socio-economic factors will be investigated.

8.3.1 Income per capita

Lipset, as a result of his research, concluded that economic growth and increase in income engender a culture of democracy and provide the foundations for democratic institutions. As to why income is important for democracy, Lipset argued increased wealth reduces the overall level of objective inequality, weakening status distinctions,

³²¹ Bunce, Valerie. 2000. "Comparative Democratization: Big and Bounded Generalizations," *Comparative Political Studies* 33(6-7), pp.703-734.

³²² Evelynne, Huber; Rueschemeyer, Dietrich; and Stephens, John D. 1992. *Capitalist Development and Democracy*. Cambridge: Polity Press, and Chicago: Chicago University Press, pp.53-57.

³²³ Lipset, Seymour Martin. 1959. "Some Social Requisites of Democracy: Economic Development and Political Legitimacy," *American Political Science Review* 53(1), p.84.

³²⁴ Diamond, Larry. 1992. "Economic Development and Democracy Reconsidered," in Marks, Gary and Diamond (Eds) *Re-examining Democracy, Essays in Honor of Seymour Martin Lipset*. Newbury Park, London, New Delhi: Sage Publications, p.128.

and increasing the size of the middle class.³²⁵ Lipset also argued that in order for a gradualist and democratic regime type to emerge, increase in average income is crucial. In this regard he wrote: “A belief in secular reformist gradualism can only be the ideology of a relatively well-to-do lower class”³²⁶ Similarly, Diamond argued that “better socio-economic conditions generate the circumstances and skills that permit effective and autonomous participation...[and] when most of the population is literate, decently fed and sheltered, and otherwise assured of minimal material needs, class tensions and radical political orientations tend to diminish”.³²⁷ Diamond found in his research that liberal democracies are seen almost exclusively among high income and upper-middle income countries, while closed regimes are seen among low-income countries.³²⁸ Within the middle range, he observed that partially open countries are mostly seen among lower-middle income countries and sometimes among upper-middle income countries. Overall, Diamond concluded that there is a high correlation between economic development and democracy. Diamond actually investigated the statistical relation between a country’s income level and democratic rating according to Freedom House. He tested the data for statistical significance with two forms of the chi-square test, both of which showed the association to be “highly significant at the 0.0001 level”³²⁹

As to why a low level of wealth and income could hinder the necessary institutions for democracy, Diamond noted that in poor countries, favoritism and

³²⁵ Lipset, Seymour Martin. 1960. *Political Man: The Social Bases of Politics*. Garden City, NY: Doubleday, pp.47-51.

³²⁶ Lipset, Seymour Martin . 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.78.

³²⁷ Diamond, Larry. 1992. “Economic Development and Democracy Reconsidered,” in Marks, Gary and Diamond (Eds) *Re-examining Democracy, Essays in Honor of Seymour Martin Lipset*. Newbury Park, London, New Delhi: Sage Publications, p.126.

³²⁸ *Ibid.*, p.99.

³²⁹ *Ibid.*, p.98.

nepotism undermine the possibility of a well-functioning bureaucracy, which is necessary for a democracy.³³⁰ In this regard, it can be argued that increasing levels of wealth might be functional for establishing a well-functioning democracy. Similarly, Barro noted that “increases in various measures of the standard of living forecast a gradual rise in democracy” and that “democracies that arise without prior economic development tend not to last.”³³¹ It seems that the positive relation between income and democracy applies except for cases such as Germany, India and some oil-rich Arab countries (for an explanation of these cases, see endnote³³²).

The relation between development and democracy, Diamond noted, is not unilinear:

The relationship between socio-economic development and democracy is not unilinear but in recent decades has more closely resembled an “N-curve”—increasing the chances for democracy among poor and perhaps lower-middle income countries, neutralizing or even inverting to a negative effect at some middle range of development and industrialization, and then increasing again to the point where democracy becomes extremely likely above a certain high level economic development (roughly represented by a per capita income of \$6000 in current US dollars (year 1992)).³³³

³³⁰ Ibid., p.84.

³³¹ Barro, Robert J. 1999. “Determinants of Democracy,” *Journal of Political Economy* 107(6), p.160.

³³² Regarding the exceptional situation of *Germany*, Lipset wrote: “Germany is a an example of a nation in which the structural changes—growing industrialization, urbanization, wealth, and education—all favored the establishment of a democratic system, but in which a series of adverse historical events prevented democracy from securing legitimacy in the eyes of many important segments of society, and thus weakened German democracy’s ability to withstand crisis.” (Lipset, Seymour Martin . 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.72). Another exceptional case in terms of is *India*. Although there is very limited socio-economic development in this country, it has an established democracy, which might be the result of India’s peculiar historical development. And some oil-rich *Arab countries* might be considered exceptional cases in the sense that there is some socio-economic development in these countries but no consolidated democracies. It is important to emphasize that in these countries, the industries and economic activities are not varied much, but rather rely on oil revenues that are allocated to the citizenry by the state in exchange for control and manipulation of the civil society and politics (See Acemoglu, Daron and Robinson, James A. 2006. *Economic Origins of Dictatorship and Democracy*. Cambridge: Cambridge University Press.)

³³³ Diamond, Larry. 1992. “Economic Development and Democracy Reconsidered,” in Marks, Gary and Diamond (Eds) *Re-examining Democracy, Essays in Honor of Seymour Martin Lipset*. Newbury Park, London, New Delhi: Sage Publications, p.109.

Although there are a few democracies in the world such as India or Mongolia that have an income per capita about \$1000 or 2000, it is observed that most democracies have an income per capita over \$5000-6000. Whether there exists a certain threshold concerning the relation between income and democracy, Przeworski noted “no democracy ever, including the period before World War II, fell in a country with a per capita income higher than that of Argentina in 1975, \$6,055.”³³⁴

8.3.2 Income Distribution

The number of studies concerning the relation between income distribution and democracy are limited in number; however, there are a few well-conducted and methodologically sound studies which indicate a positive correlation between economic equality and democratic survival such as Muller (1988), Arat (1991), Przeworski et al. (1996), Przeworski et al. (2000), Boix and Garicano (2002), and Przeworski (2003).

Regarding the relation between income distribution and democracy, Przeworski notes:

...Democracies are more likely to survive when the Gini coefficient or the ratio of incomes of top-to-bottom-quintile are lower. Data concerning functional distribution are more extensive and they show the same: democracy is four times more likely to survive in countries in which the labour share of value added in manufacturing is greater than 25 percent.³³⁵

Przeworski et al. conclude that “democracy is much more likely to survive in countries where income inequality is declining over time.”³³⁶ These authors in their study found that “the expected life of democracy in countries with shrinking inequality is about 84 years, while the expected life of democracies with rising income inequality is about 22

³³⁴ Przeworski, Adam. 2003. “Democracy and Economic Development,” paper written for United Nations Development Program, published at <http://www.nyu.edu/gsas/dept/politics/faculty/przeworski/papers/sisson.pdf>, p.9.

³³⁵ Ibid., p.10.

³³⁶ Przeworski et al. 1996. “What Makes Democracy Endure,” *Journal of Democracy* 7(1), p.43.

years” (these numbers refer to the aggregate lifespan of democracies with rising and declining inequality among 135 countries over 40 years). In a similar way, Boix and Garicano, based on his empirical investigation, concluded “economic equality and capital mobility promote democracy... By contrast, at higher levels of both inequality specificity [of capital], authoritarian regimes prevail.”³³⁷

Regarding the reason why better distribution of income is important for democracy and the flourishing of democratic attitudes, Bueno de Mesquita and Downs wrote:

It is only when individuals break out of poverty that they begin to demand a role in and provide support for democracy. Thus, the removal of mass poverty is essential to inculcate within the population the attitudes and behaviours that are supportive of democracy. Economic growth “leads to an increase in the number of individuals with sufficient time, education, and money to get involved in politics.”³³⁸

In regard to the importance of reducing poverty for securing democracy and democratic citizenship, Lipset argued that reducing poverty is critical for securing the basis of democracy and for equalizing the subjective perception of honour and equality of some citizens in the eyes of other citizens. On this issue, he wrote:

The poorer a country, and the lower the absolute standard of living of the lower classes, the greater the pressure on the upper strata to treat the lower classes as beyond the pale of human society, as vulgar, as innately inferior, as a lower caste.³³⁹

Chong argued the relationship between in-equality and democracy might be a non-monotonic relationship and argued that “poor and highly unequal countries are the

³³⁷ Boix, Carles and Garicano, Luis. 2002. “Democracy, Inequality and Country-specific Wealth,” paper published at <http://www.yale.edu/leitner/pdf/PEW-Boix.pdf>, p.2.

³³⁸ Bueno de Mesquita, Bruce and Downs, George. 2005. “Development and Democracy,” *Foreign Affairs* 84(5), p.79.

³³⁹ Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.83.

ones where such a link [between inequality and democracy] tends to be positive,” and that “relatively equal countries are the ones where such a link tends to be negative”.³⁴⁰ Taking into consideration these studies together, although one needs to be cautious about the relationship between equality and democracy, it seems that there could be some positive relation between the two. The possibility of mutual causation needs to be also considered, since the two variables might well feed each other.

8.3.3 Industrialization and Urbanization

Industrialization can be measured by the percentage of employed people in industry compared to agriculture, and the per capita commercially produced “energy” being used in the country. Lipset noted that the average percentage of employed people working in agriculture and related occupations was lower for more democratic European countries and higher for less democratic and dictatorial Latin American countries.³⁴¹ The differences in per capita energy employed in the country, Lipset noted, are also equally large. Such large differences denote differences in terms of historical development in terms of industrialization. In his research, Cutright found the correlation between industrialization and democratic stability to be 0.72.³⁴²

Urbanization, which is a natural result of industrialization, is also a crucial factor in terms of democracy. Harold J. Laski asserted that organized democracy is the product of

³⁴⁰ Chong, Alberto. 2001. “Inequality, Democracy, and Persistence: Is there a Political Kuznets Curve?,” Working Paper No: 445, Inter-American Development Bank and Georgetown University, p.25.

³⁴¹ Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.76.

³⁴² Cutright, Phillips. 1963. “National Political Development: Measurement and Analysis,” *American Sociological Review* 28(2), pp.253-264.

urban life.³⁴³ The argument that urbanization is directly linked to democracy is best depicted by Lerner, who argued that democratic participation is the end result of an evolutionary historical process, the initial stage of which is ‘urbanization,’ the second stage ‘literacy and media participation,’ and the third stage ‘political participation.’³⁴⁴ Concerning this sequence of evolutionary development, Lerner put forth his argument as follows:

Society appears to involve a regular sequence of three phases. *Urbanization* comes first, for cities alone have developed the complex of skills and resources which characterise the modern industrial economy. Within this urban matrix develop both of the attributes which distinguish the next two phases, literacy and media growth. There is a close reciprocal relationship between these, for the literate develop the media, which in turn spread literacy. But, historically, *literacy* performs the key function in the second phase. The capacity to read, at first acquired by relatively few people, equips them to perform the varied tasks required in the modernizing society. Not until the third phase, when the elaborate technology of industrial development is fairly well advanced, does a society begin to produce *newspapers, radio networks, and motion pictures on a massive scale*. This, in turn, accelerates the spread of literacy. Out of this interaction develop those institutions of *participation (e.g., voting)* which we find in all advanced modern societies. For countries in transition today, these high correlation’s suggest that literacy and media participation may be considered as a supply-and-demand reciprocal in a communication market whose locus, at least in its historical inception, can only be urban [emphasis added by the author].³⁴⁵

A study supporting Lerner’s argument was done by Cutright, who found that the correlation between urbanization and democracy is 0.69.³⁴⁶ This shows that the relation between urbanization and democracy is a strong one.

³⁴³ Laski, Harold J. 1937. “Democracy” in *Encyclopedia of Social Sciences*, Volume V. New York: Macmillan, pp.76-85.

³⁴⁴ Lerner, Daniel. 1958. *The Passing of Traditional Society: Modernizing the Middle East*. New York: Free Press, p.60.

³⁴⁵ Ibid.

³⁴⁶ Cutright, Phillips. 1963. “National Political Development: Measurement and Analysis,” *American Sociological Review* 28(2): 253-264.

8.3.4 Education

James Bryce, in relation to education, argued that if education does not make people good citizens, it makes it at least easier for them to become so.³⁴⁷ Almond and Verba concluded that education “had the most important demographic effect on political attitudes.”³⁴⁸ On the other hand, Lipset argued “through better education, citizens come to value democracy more and to manifest a more tolerant, moderate, restrained, and rational style with respect to politics and political opposition.”³⁴⁹ Many authors have found that there is a positive correlation between education and democracy. Cutright found that the correlation between education and democracy is 0.74. In terms of the relation between education, democracy and democratic values, Lipset noted “the most important single factor differentiating those giving democratic responses from others has been education.”³⁵⁰ The higher one’s education, the more likely one is to believe in democratic values and support democratic practices.” Winham found that there is even a causal relationship between education, communication and democracy.³⁵¹ Lipset argued that education leads to more moderate and democratic citizens, stating:

Education presumably broadens man's outlook, enables him to understand the need for norms of tolerance, restrains him from adhering to extremist doctrines, and increases his capacity to make rational electoral choices. ... The higher one's education, the more likely one is to believe in democratic values and support democratic practices. ... If we cannot say that a 'high' level of education is a

³⁴⁷ Bryce, James. 1912. *South America: Observations and Impressions*. New York: Macmillan, p.546.

³⁴⁸ Almond, Gabriel and Sidney, Verba. 1963. *The Civic Culture: Political Attitudes and Democracy in Five Nations*. Princeton: Princeton University Press.

³⁴⁹ Lipset, Seymour Martin. 1960. *Political Man: The Social Bases of Politics*. Garden City, NY: Doubleday, pp.39-40.

³⁵⁰ Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.79.

³⁵¹ Winham, Gibert R. 1970. “Political Development and Lerner’s Theory: Further Test of A Causal Model,” *American Political Science Review*, 64(3), pp.810-818.

sufficient condition for democracy, the available evidence suggests that it comes close to being a necessary one.³⁵²

Concerning the issue of how education leads to further democracy, an intermediary mechanism, communication media, is put forth by authors. Diamond argues “education...stimulates the expansion of communication media, which then has a large effect on democratization”³⁵³ Similarly, Inkeles found that education and exposure to mass media create an active and participatory citizenry, which is critical for the emergence and well functioning of democracy.³⁵⁴ It can be argued that literacy is the most important component of education in relation to democracy. Lipset pointed out that according to his data set “the more democratic countries of Europe are almost entirely literate: “The lowest has a rate of 96 per cent, while the less democratic nations have a literacy rate 85 per cent. In Latin America, the difference is between an average rate of 74 percent for the less dictatorial countries and 46 percent for the more dictatorial.”³⁵⁵ The numbers Lipset mentions concerning literacy have changed since then, however, the relation he points out still more or less applies today. Literacy in relatively more democratic countries such as Argentina (97.2%), Chile (95.2%), or Brazil (88.6%) is higher than Guatemala (69.1%), Honduras (80.0 %), or Bolivia (86.7%) that are less democratic today.³⁵⁶

³⁵² Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), pp.79-80.

³⁵³ Diamond, Larry. 1992. “Economic Development and Democracy Reconsidered,” in Marks, Gary and Diamond (Eds) *Re-examining Democracy, Essays in Honor of Seymour Martin Lipset*. Newbury Park, London, New Delhi: Sage Publications, p.104.

³⁵⁴ Inkeles, Alex. 1969. “Participant Citizenship in Six Developing Countries,” *American Political Science Review* 63(4), pp.1120-1141.

³⁵⁵ Lipset, Seymour Martin. 1959. “Some Social Requisites of Democracy: Economic Development and Political Legitimacy,” *American Political Science Review* 53(1), p.78.

³⁵⁶ <http://hdr.undp.org/en/reports/global/hdr2007-2008>.

8.3.5 Human Development

Human development consists not only of economic development but also social and cultural development. The UN measures human development by the human development index (HDI), which is composed by using three main criteria: income, educational attainment, and life expectancy. The HDI was created in 1990 by Indian economist Amartya Sen and Pakistani economist Mahbub ul Haq, and is widely used by social scientists to assess a country's level of socio-economic development. The HDI has a maximum rating scale of 100; a HDI of 80-100 denotes 'high human development', 50-79 denotes 'middle human development', and HDI between 0-49 denotes 'low human development'.³⁵⁷ The UN started a Human Development Program that aims at increasing human development in underdeveloped countries, especially in Africa and South Asia. It can be argued that the improvements in human development in these countries is critically important not only for the quality of life in these countries, but also for the sustenance of social and political institutions.

In regard to the relation between human development and democracy, Diamond notes that the Human Development Index (HDI) is a better predictor of a country's level of democracy than the GNP per se. He found that while there is 0.51 correlation between the GNP and the index of political freedom (i.e. Freedom House index), there exists a considerably higher correlation between the HDI and the Freedom House index, which is 0.71.³⁵⁸ Thus, it is reasonable to say that a country's human development is highly correlated with freedom and democracy in that country. The reason for such a high

³⁵⁷ See http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_TUR.html.

³⁵⁸ Diamond, Larry. 1992. "Economic Development and Democracy Reconsidered," in Marks, Gary and Diamond (Eds) *Re-examining Democracy, Essays in Honor of Seymour Martin Lipset*. Newbury Park, London, New Delhi: Sage Publications, p.102.

positive correlation might be explained by the fact that high human development may be forming some basis for higher social capital and generally more civilized conditions, which might be more conducive for democracy. After having explained modernization theory, in the second part, the findings and insights of modernization theory are applied to the Turkish case.

8.4 Modernization Theory and the Case of Turkish Democracy

Turkey's recent socio-economic and political data expose a particularly interesting case. Different components of socio-economic modernization in this country are getting so close to the threshold of 'high' values that they lead one to think that Turkey might be on the verge of experiencing a leap in terms of socio-economic and democratic development. Although there exists no linear relationship between development and democracy, still from a probabilistic point of view, recent socio-economic development in Turkey seems to be promising in terms of democratic survival. Bringing together some of the pivotal developmental factors mentioned in the previous part of the chapter as well as the Freedom House ratings, it can be seen that Turkey is quite close to meeting the *minimal* official requisites of becoming a country with the following four:

- 'High' GNI per capita (Gross National Income per capita)³⁵⁹
- Relatively lower inequality of income (possibly 'low-middle' Gini coefficient)³⁶⁰

³⁵⁹ As noted before, according to World Bank, economies are divided according to 2008 GNI per capita, calculated using the World Bank Atlas method. The groups are: low income, \$975 or less; lower middle income, \$976-\$3,855; upper middle income, \$3,856-\$11,905; and high income, \$11,906 or more (World Bank, country classification, 2008, <http://www.worldbank.org>.)

³⁶⁰ Although there is not a strict criteria for the categorization of countries based on the Gini coefficient, according to the general view of economists, as noted before, a low level of inequality is considered to be between 0.00-0.30, middle level of inequality 0.30-0.45, and high level of inequality between 0.45-1.00.

- ‘High’ HDI (Human Development Index)
- ‘Free’ rating in the Freedom House report

These four indicators are shown on a table below.

	GNP per capita	Gini coefficient	HDI	Freedom Rating
Threshold	High \geq \$11,906 (<i>World Bank</i>)	Low \leq 0.30	High \geq 80 (<i>UN</i>)	Free \leq 2.5 (<i>Freedom House</i>)
Turkey	\$9,340 (2008)	0.38 (2005)	79.98 (2008)	3.0 (2008)

*Table 1: Turkey’s Recent Socio-economic and Political Ratings*³⁶¹

The implications of the factors shown in Table 1 as well as of the other relevant socio-economic factors are discussed throughout the next pages. Turkey’s socio-economic factors, parallel to the previous part in sequence, are evaluated in terms of their effect on democratization in Turkey.

8.4.1 Income per capita

As mentioned above with reference to Przeworski, no country that has surpassed \$6,055 has democracy ever fallen. Although it is not easy to establish a definite income level to be necessary or sufficient for democratic consolidation as of today, Turkey’s current income level today seems to be at a conducive level for democratic survival. Turkish GDP has recently surpassed \$10,000, and Turkey could soon come to the level of ‘high income country’ despite decreasing growth recently. It can be argued that Turkey’s current income is quite an advantage for further democratization and democratic

³⁶¹ Turkey’s GDP per capita and Gini coefficient values are taken from <http://www.tuik.gov.tr>, and HDI values taken from <http://www.undp.org>.

consolidation when one takes into consideration that there is high correlation (0.51) between income and democracy, as mentioned above. Turkey's income level today is close to the income level of those countries in Eastern Europe or Latin America, which have recently experienced democratic consolidation, such as Poland, Bulgaria, Romania, Chile, Brazil, or Argentina.³⁶²

8.4.2 Income Distribution

The Turkish Statistical Institute recently reported that there has been some improvement in Turkey's income distribution recently, which was mentioned in Chapter 5 (please see the table there which shows Turkey's Gini coefficient during 1987-2005). Based on that table, it can be said that the inequality of income in Turkey increased during 1987-1994 and decreased during 1994-2005. Turkey's Gini coefficient in 2005, which is 0.38, indicates a medium level.³⁶³ It seems that as long as the current amelioration in distribution of income continues for some time, Turkey's Gini coefficient in the coming years might become closer to low-medium values (such as 0.30-0.35). This would be important in terms of achieving a larger middle class and a more substantive and popular democracy in Turkey. Turkey's income distribution, although not totally satisfactory yet, could become better and more conducive for a more popular and participatory democracy if the amelioration in income distribution continues without any interruption in the coming years. The Justice and Development Party (AKP) which is a conservative party

³⁶² In 2007, the mentioned countries had the following GDP per capita: Bulgaria \$5,175, Romania \$7,703, Chile \$9,877, Argentina \$6,641, Brazil \$6,859, while Turkey's GDP per capita was \$8893. The information is mathematically derived by using the GDP and population data from the following two sources of the World Bank:

<http://siteresources.worldbank.org/DATASTATISTICS/Resources/GDP.pdf> and
<http://siteresources.worldbank.org/DATASTATISTICS/Resources/POP.pdf>.

³⁶³ <http://economics.about.com/cs/economicsglossary/g/gini.htm>. See the information about the Lorenz curve and Gini coefficient at http://www.unc.edu/depts/econ/byrns_web/Economicae/Figures/Lorenz.htm.

and in government now, has a relatively limited vision of ‘social justice’ due to its neo-liberal priorities, and it is dubious as to whether the AKP would have an intention to decrease Turkey’s income inequality as low as 0.30, which would be normally expected to be done either by a social liberal or a social democratic party.

8.4.3 Industrialization and Urbanization

Turkey started industrialization in the late 19th century and experienced a high level of industrialization, especially in the second half of the 20th century. As of 2009, Turkey is considered a NIC (newly-industrialized country) along with Mexico, Argentina, Brazil, South Africa, China, India, Thailand, and Philippines.³⁶⁴ Turkey today has a relatively developed bourgeoisie that is predominantly pro-democratic. It is observed that globalization, increasing capital and better technical education increases industrialization in Turkey. As a result, Turkey has become an “emerging market” in the global economy. It can be argued that Turkey’s relatively developed industry and market economy are advantages for democratization in this country.³⁶⁵

Regarding the rate of urbanization in Turkey, it has been reported that urbanization in contemporary Turkey, parallel to increased industrialization, has been 75% as of 2008.³⁶⁶ The level of urbanization in developed countries varies from 65 to 90

³⁶⁴ Newly industrialized countries (NIC) are countries that are not as developed as ‘developed’ countries but are more advanced than most other ‘developing’ countries. See Pawel Bozyk Bozyk, Pawel, *Newly Industrialised Countries- Globalization and the Transformation of Foreign Economic Policy* (Aldershot, UK: Ashgate Publishing, Ltd., 2006), p.164.

³⁶⁵ See Kılıçbay, Ahmet. 2006. *21. Yüzyılın Türkiyesinde Çağdaşlaşma* (Modernization in 21st century Turkey). Istanbul: Bilim Teknik Yayınevi, and Mousseau, Demet Yalçın. 2006. “Democracy, Human Rights and Market Development in Turkey: Are They Related?,” *Government and Opposition* 41(2), pp.298-326.

³⁶⁶ <http://www.tuik.gov.tr>. An important issue concerning industrialization is the proportion of the labor force by sectors. The Turkish Statistical Institute, DIE, reported that the agricultural population in Turkey in 2008 fell to 25.0%. Turkey’s GDP by sector is reported to be as follows: agriculture 8.5%, industry

depending on geographical and demographic factors.³⁶⁷ It is observed that Turkey's level of urbanization is roughly within the range of 'developed' countries, although somewhat lower than many of these countries. Turkey's level of urbanism increased especially in the last three or four decades and continued to increase since then. The increase in the level of urbanism, which has been a result of migration, has created certain urban problems, such as poverty, crime, etc. On the other hand, increased urbanism has created greater opportunities for literacy and education, social mobility, and political representation, which altogether increase the chances for further democratization, as depicted by the above-mentioned empirical findings.

8.4.4 Education

A widely used index for measuring educational attainment is the UN's education index, which is practically one of the three components of human development index. The education index is formed as a composite of two factors: literacy rate and gross enrolment rate. The index can be maximum of 100. In terms of the first component of the education index (i.e. literacy rate), Turkey has made a great deal of improvement in recent decades. To give a comparative idea, the rate of literacy in Turkey was approximately 9% in 1923 when the Turkish Republic was founded, and it is 88.1% as of 2008 (and will likely exceed 90% in 2011 or 2012).³⁶⁸ On the other hand, Turkey's gross enrolment rate has

28.6%, services 62.9% (2008 estimate, taken from <https://www.cia.gov/library/publications/the-world-factbook/fields/2012.html>).

³⁶⁷ Following are the rate of urbanization for certain developed countries in 2003: Japan 65%, Italy 67%, Spain 76%, USA 80%, UK 89%, Australia 92%. See http://www.geohive.com/earth/pop_urban.aspx. (Note that Turkey's urbanization rate was 66% in 2003).

³⁶⁸ <http://www.americanchronicle.com/articles/view/74157> and <http://www.webfoot.com/advice/WrittenArabic.html>.

recently been 71.1% as of 2006.³⁶⁹ The education index has recently been 82.4 in 2008, which is considered to be in the 'high' category by UN standards.³⁷⁰ As a result, one can argue, considering the high correlation between education and democracy as shown by various researchers, Turkey's relatively increased rate of literacy and gross enrolment rate, are important assets for further democratization in Turkey.

8.4.5 Human Development

Turkey's human development index is 79.98 as of 2008. The HDI of some countries are as follows: Norway 96.8, the USA 95.0, Portugal 90.0, Mexico 84.2, Brazil 80.7, Philippines 74.5, Honduras 71.4, South Africa 67.0, India 60.9, Pakistan 56.2, Tanzania 50.3, Rwanda 43.5, Niger 37.0, and Sierra Leone 32.9. Turkey's HDI according to UN criteria is at the verge of 'high HDI' (80.00) and will most likely exceed the threshold which will be reflected in the 2009 report (to be published in October). Turkey will thus be considered in the category of countries with 'high human development.'³⁷¹ Turkey's being at the verge of a 'high' HDI in this regard is an important and promising factor for democratization when we consider the 0.71 correlation between HDI and Freedom House score of a country. In the next section, Turkey's Freedom House scores and the chances for further democratization is discussed.

³⁶⁹ http://hdrstats.undp.org/2008/countries/country_fact_sheets/cty_fs_TUR.html.

³⁷⁰ According to UNESCO, 0-49 depicts 'low' educational attainment, 50-79 'middle' educational attainment, and 80-100 'high' educational attainment. See <http://hdr.undp.org/en/mediacentre/news/title,15493,en.html>.

³⁷¹ It needs to be acknowledged that despite having 'high HDI,' Turkey's development still needs to be evaluated as 'uneven development' due to problems in areas such as press freedom, gender equality, and environmental protection.

8.5 Turkey's Freedom House Ratings over the Years

Taking into account the fact that Turkey's level of income per capita, income distribution, and human development index are close to certain threshold values, further democratization could be expected. In fact, this expectation seems to be supported by both Turkey's already meeting the Copenhagen Political Criteria and also Turkey's relatively satisfactory Freedom House scores in recent years. Turkey's Freedom House rating in 2008, as shown in Figure 1 is 3.0, which implies a 'semi-free' regime, however, one that is getting closer to the 'free' category. Some basic information about the Freedom House and its rating system might be useful here. Freedom House is a US-based non-governmental organization that publishes reports every year on the condition of freedom and democracy in various countries around the world and rates the countries on a composite score from 1 to 7. The composite score is actually constructed by two factors, civil liberties and political liberties. Both political and civil liberties are evaluated by an index from 1 to 7 (1 denotes most free, and 7 denotes most authoritarian), and combining these two indices, a single composite index is created by the arithmetic average of the two indices, and this single index is used to evaluate whether that country would be considered either 'free', 'partly free', or 'non-free'. A composite index between 1.00-2.50 is defined by the Freedom House as 'free,' 2.50-5.00 as 'partly free,' and 5.50-7.00 as 'non-free.' Such numerical representations might be methodologically disputed; however, they can somehow offer a general idea about the comparative situation of freedom and democracy in a country.

In order to provide an account of Turkey's scores over the years, and in order to be able to make comments on Turkey's chances of democratic consolidation in the coming years, the yearly performance of Turkey during 1972-2008 is shown on Figure 1.

1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0
Free	Free	Free	Free	Partly Free	Partly Free	Partly Free	Partly Free	Partly Free	Non- Free	Non- Free	Non- Free	Non- Free
←				→								
Democratization						Authoritarianization						



*Figure 1: Turkey's Freedom Ratings during 1972-2008 according to Freedom House*³⁷²

³⁷² See <http://www.freedomhouse.org/uploads/fiw/FIWAllScores.xls>.

It is seen in Figure 1 that Turkey achieved ‘free’ ratings during the 1974-1979 period (a rating of 2.5) despite the fact that there was political terror in those years.³⁷³ However, it is observed that the 1980 coup decreased this score to ‘partly free’ (5.0). It is a generally admitted fact that the military junta caused a significant authoritarianization in Turkey during 1980-1983. However, the country made a re-transition to democracy in 1983, after which some relative civilianization took place in the country. During 1983-1992, Turkey politically experienced a significant civilianization and democratization (reaching a rating of 3.0 during 1986-1992). However, in the aftermath of this relatively free period, Turkey experienced another wave of authoritarianization during 1992-2001 and its rating worsened to values around 4.5. In the next section, the possible reasons for the fluctuations in Turkey’s freedom ratings are discussed.

8.5.1 Possible Reasons for the Fluctuations in Turkey’s Freedom Ratings: Income Threshold, Market Development, and the EU-Turkey Relations

As to why there have been fluctuations in Turkey’s freedom ratings over the years and why Turkey could not consolidate its democracy in the 1970s or in the 1990s despite favourable conditions, it can be argued that Turkey’s level of income per capita in those years was still below a certain threshold, may this be \$6,055 or a bit more. Therefore, despite relatively high freedom ratings, democracy could not be consolidated then. However, it can be reasonably argued that Turkey today has surpassed a certain level of income and development, and therefore could be in a more advantageous position in

³⁷³ It should be noted that political freedom may not necessarily, or always, guarantee peace and security within a country. Despite a relatively high level of political freedom in the country, there was widespread political terror in Turkey in the 1970s.

terms of democratic survival. Although this may or may not come true in the coming years, this argument has the advantage of relying on the evidence of all the existing democracies since 1975, which have survived after surpassing the threshold of \$6,055, as mentioned by Przeworski.³⁷⁴ It can be argued that surpassing a certain threshold of income could be critical in solving many social and political problems in Turkey, including the Kurdish issue, which is a result of both deficiencies in Turkey's practice of liberal norms as well as socio-economic underdevelopment.³⁷⁵

Institutionalization is another critical issue that needs to be mentioned in terms of explaining the problems of liberalization and democratization in Turkey. Concerning the institutionalization of liberalism and the issue of why individual rights and liberties have not become rooted enough in Turkey, Demet Yalçın Mousseau argues that weak market development has been the underlying reason.³⁷⁶ She asserts that a mass market based on equality and rule of law has not been institutionalized in Turkey, and instead of this, rent seeking and clientelism through state mechanisms and political parties have been widespread. Mousseau claims that if Turkey can foster a more institutionalized market economy, this will lead to a more institutionalized democracy, which then would allow for more civil rights and liberties. Concerning this issue, she wrote:

A liberal political culture that respects individual rights may be connected to the development of an economy where most are dependent on the market rather than

³⁷⁴ Przeworski, Adam. 2003. "Democracy and Economic Development," paper written for United Nations Development Program, published at <http://www.nyu.edu/gsas/dept/politics/faculty/przeworski/papers/sisson.pdf>.

³⁷⁵ On this issue see Kirişçi, Kemal and Winrow, Gareth M. 1997. *The Kurdish Question and Turkey*. London, Portland, OR: Frank Cass; and Zeki Sarıgil (Forthcoming), "Curbing Kurdish Ethno-nationalism in Turkey: An Empirical Assessment of Pro-Islamic and Socio-economic Approaches," *Ethnic and Racial Studies*.

³⁷⁶ Mousseau, Demet Yalçın. 2006. "Democracy, Human Rights and Market Development in Turkey: Are They Related?," *Government and Opposition*, 41(2), pp.298-326.

in-groups for their livelihood and a regulatory state that enforces the rule of law impartially.³⁷⁷

Mousseau contrasts South Korea with Turkey and argues that South Korea went ahead of Turkey in terms of democratization by virtue of “creating regulated markets with egalitarian policies for the creation of a modern, broad-based mass market economy”.³⁷⁸

Mousseau argues that Turkey today has a chance to follow the same path with South Korea for further democratization and a more liberal political regime. This liberal institutionalist approach may possibly be complimentary in its implications for the argument in this chapter: a better institutionalized market economy can lead to higher and more equally distributed income, which can in the longer run enhance democratic survival.³⁷⁹ It can be argued that the market economy in Turkey has started to become more institutionalized and better regulated following the 2001 economic crisis. Income distribution has also been relatively improved since then, and all these factors seem to be advantages for institutionalization of the market economy, as well as institutionalization of a more liberal and democratic regime in Turkey.

Another critical factor that needs to be mentioned here in regard to explaining the failure of democratic consolidation in the 1980s and 1990s is the EU factor. Turkey being devoid of EU support during 1986-1992 might have been a critical factor for why Turkey was not able to make a leap from 3.0 (partly free) to 2.5 (free). Here, it should be mentioned that the EU has a two-fold effect on Turkey’s democracy, which probably enhance each other mutually. On the one hand, the EU exerts direct political influence on Turkish democratization by encouraging democratic reforms, which leads to further

³⁷⁷ Ibid., p.326.

³⁷⁸ Ibid., p.311.

³⁷⁹ I thank Dr. Zeki Sarigil for encouraging me to use Mousseau’s views as complimentary ideas for my main argument.

democratization and also liberalization.³⁸⁰ On the other hand, the EU-based socio-economic reforms in Turkey leads to further socio-economic development, which facilitates further democratization. Regarding the EU factor in relation to Turkish democratization, the EU's influence might be similar to the EU's influence on the early stages of Greek, Portuguese, and Spanish democratization.

Turkey's EU related harmonization process, along with other facilitative factors, has enabled this country to sustain a rating of 3.0 during 2004-2008. This relatively successful rating is also in line with the fact that Turkey sufficiently met the Copenhagen political criteria as of December 2004. In fact, Turkey's rating in 2008, which is 3.0, is merely 0.5 point away from 2.5. That is to say, taking into account the 2008 score, Turkey is quite close to the threshold of obtaining a 'free' score. Taking into account that Turkey has been very close to the threshold of a 'free' rating during 2004-2007, authoritarian and illiberal backlashes were an imminent possibility, which actually came true in 2007 and 2008 through events such as the military's e-memorandum on 27 April 2007 against Abdullah Gül's presidential candidacy, and party closure cases against the Democratic Society Party (DTP), a pro-Kurdish party alleged to be separatist, which is still continuing; and against the AKP, which is alleged to be anti-secular, which eventually ended up by non-closure.³⁸¹

³⁸⁰ See Öniş, Ziya and Keyman, E. Fuat. 2003. "A New Path Emerges," *Journal of Democracy* 14(2), pp.95-107; Aydın, Senem and Keyman, E. Fuat. 2004. "European Integration and the Transformation of Turkish Democracy," CEPS, EU-Turkey Working Papers, No: 2; Özbudun, Ergun and Yazıcı, Serap. 2004. *Democratization Reforms in Turkey, 1993-2004*. Istanbul: TESEV Publications; Heper, Metin. 2005. "The European Union, the Turkish Military and Democracy," *South European Society and Politics* 10(1), pp.33-44; Cizre, Ümit. 2007. *Secular and Islamic Politics in Turkey: The Making of the Justice and Development Party*. London: Routledge; Çarkoğlu, Ali and Kalaycioglu, Ersin. 2007. *Turkish Politics Today: Elections, Protest, and Stability in an Islamic Society*. London: I.B. Tauris.

³⁸¹ The AKP was not closed down by the Constitutional Court but was punished by cutting the state aid by half due to the AKP's actions that the court decided to be against the principle of 'secularism.'

It can be argued that such recent anti-liberal events might be evaluated as being some of the transitional hurdles as Turkey is trying to make a transition from what Schedler calls an 'electoral democracy' to 'liberal democracy,'³⁸² or a transition from what O'Donnell calls a 'democratic government' to a 'democratic regime.'³⁸³ In this transitional process to a fully democratic regime, the creation of a civil constitution would be especially critical. The AKP government actually attempted to bring forth a civil and liberal constitutional draft prepared by a commission of law professors recently, but has not been able to publicly legitimise it or bring it to the Parliament. However, if it can succeed passing such a constitution in the coming months or years by the support of the major opposition parties and civil societal organizations, then it will be quite critical for political modernization in Turkey. It can even be argued that, such a civil and more liberal constitution can safely move Turkey to a 'free' rating on the Freedom House scale (≤ 2.5).

³⁸² For the difference between electoral democracy and liberal democracy, see Schedler, Andreas. 1989. "What is Democratic Consolidation," *Journal of Democracy* 9(2), pp.91-107.

³⁸³ O'Donnell argues that 'democratic transition' entails two stages:

The first is the transition from the previous authoritarian regime to the installation of a democratic government. The second transition is from this government to the consolidation of democracy or, in other words, to the effective functioning of a democratic regime... The second transition will not be any less arduous nor any less lengthy; the paths that lead from a democratic government to a democratic regime are uncertain and complex, and the possibilities of authoritarian regression are numerous. (O'Donnell, Guillermo. 1992. "Transitions, Continuities, Paradoxes," In Scott Mainwaring, Guillermo O'Donnell, and J. Samuel Valenzuela (Eds). *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspective*. Notre Dame: University of Notre Dame Press, pp.48-49.)

It can be argued that Turkey is trying to make the transition from what O'Donnell calls a 'democratic government' (formal democratic government) to a '*democratic regime*,' and experiencing the hurdles of such a transition to full democracy.

8.6 Conclusion

It can be argued that if Turkey continues political and socio-economic modernization in the years ahead, especially in terms of economy, education, and human development, and also carry out the necessary political reforms such as passing a civil constitution, Turkey might possibly find itself in a position to experience further democratization and even consolidate its democracy. In this regard, the EU would be quite important for Turkey, which has a potential to enhance socio-economic modernization and political modernization mutually, as was elaborated above. Provided that the EU develops fairer, more inclusive and supportive policies throughout the next years, Turkey's earning, and more importantly sustaining a democratic rating for a couple of years, might possibly signal the beginning of Turkey's transcending the 'partly-free' authoritarian regime and eventually reaching a 'free' and genuine democracy.

CHAPTER 9

CONCLUSION

This study has made three basic contributions to the literature. The first one is theoretical, which is the comparison of Rawls' concepts of constitutional consensus and overlapping consensus with the major concepts in the democratization literature. It is argued that Rawls' initial stage of constitutional consensus (*modus vivendi*) corresponds to democratic transition, finalized constitutional consensus corresponds to minimalist and negative consolidation, and overlapping consensus corresponds to maximalist and positive democratic consolidation.

The second contribution of this study is related to the relevance of constitutional consensus and overlapping consensus to Turkish democracy. It is argued that Turkey has experienced significant improvement recently in terms of meeting the three requirements of a constitutional consensus as outlined by Rawls. However, there are still problems such as deficiencies in the rule of law, continuing military influence in politics, relative weakness of cooperative virtues in politics as well as relative weakness of inter-group trust. If improvements and deficiencies are considered together, along with Turkey's Freedom House scores, it can be argued that Turkey today is a 'borderline case' in terms of meeting the conditions of a constitutional consensus.

Concerning the possibility of an overlapping consensus on issues of social justice, secularism, and the Kurdish issue in Turkey, it is argued that in order to be able to form a possible overlapping consensus on these issues, Turkish citizens need to rely on public

reason and the basic parameters of constitutional democracy. It is argued that for a possible overlapping consensus, the inherent values in the Turkish political culture such as cultural pluralism, tolerance, (republican) equality, and a social state, all of which have a relatively long history, need to be systematized and politicized within the liberalizing scheme of Turkish democracy. It is argued that within the liberalizing scheme of Turkish democracy, Rawls' justice as fairness can be both a relevant and appealing alternative for Turkish democracy for which liberty and equality have been major ideals to be realized. In fact, after the EU-Turkey relations, these two ideals have become even more central; and in this regard more studies are required in order to substantiate these ideals with reference to concrete issues.

The third contribution of this study focuses on the possibility of democratic consolidation in Turkey in light of the current socio-economic and political developments in Turkey. It is argued that Turkey's current socio-economic development seems to be on the verge of certain threshold values. With reference to modernization theory, it is argued that the chance of democratic consolidation in Turkey today is practically higher than in the past. Thus, making political reflections on the possibility of democratic consolidation in Turkey today is more relevant and important than it was in the past. The author, in this regard, thinks that Rawls is becoming increasingly more relevant for the transforming and democratizing Turkey. Due to such increasing relevance, the author wishes that there would be further studies in the coming years that would build further connections between Rawls and Turkey, in which hopefully more mature findings may arise.

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